



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1183 OF 2025

Soni Alias Anita Gorakh Bhosale And Another

....Applicant

VERSUS

The State Of Maharashtra

.....Respondent

Advocate for Applicants : Mr. Gaikwad Anil M.

APP for Respondent: Ms. R.R. Tandale.

Advocate for Applicant in Cr. Application No.3311 of 2025 : Ms.
Tejaswini Sham Raut.

CORAM : MEHROZ K. PATHAN, J.

DATE : 10th NOVEMBER, 2025.

P.C. :-

1. The applicants are seeking their release on regular Bail in connection with Crime No. 0031 of 2025, registered with Ambhora Police Station, District Beed, for the offences punishable under Sections 103-1, 109, 189-2, 191-2, 191-3, 190 of the Bhartiya Nyaya Sanhita and under Sections 3(1)(i) and 3(2) and 3(4) of the MCOC Act.

2. The informant is the resident of village Hatolan, Taluka Ashti, District Beed. It is alleged that on 16.01.2025, at 4.30 p.m. the brother in law of the informant – Chibba, went to worship at Mohota Devi alongwith his friend. At about 5.00 p.m. he called the informant and informed that accused Suresh, Gorakh, Deepak and Nazya Kale abused him and assaulted him. Informant share the said incident with her husband. Thereafter, husband of the informant and her brother in law, went to Vahira on motorcycle to help Krushna. As they did not

return, the informant Chibba alongwith her mother in law and sister in law, went there at about 9.00 p.m. They saw that her brother in law Bharat was lying in a pool of blood. He was not in a condition to speak. He sustained grievous injuries. The weapon axe and iron pipe were lying near Bharat. At the left side of the road, Ajinath - the husband of the informant was lying unconscious in blood pool. One sharp knife and iron rod were found near him. Her brother in law – Krishna was also lying unconscious. There were head injuries and blood was oozing from the injuries. Even, there were marks of injuries on his face and chest. When the informant inquired with Krishna, he named 10 accused including the applicants/accused and informed that due to previous quarrel, all the accused assaulted them with iron rod, wooden rod, axe and knife. Krishna was thereafter shifted to the hospital. Even, Ajinath - the husband of informant, and Bharat were shifted to Hospital at Ashti, where they were declared dead. After the funeral, the FIR came to be lodged.

3. Mr. Gaikwad, learned counsel for the applicant submits that the applicant Soni and Shashikala had hardly any role in the twin murders of Ajinath and Bharat. It is submitted that the applicants being ladies, are having their families to look after. The allegation that they are members of a syndicate is clearly misconceived and that there is nothing on record to show that applicants were the assailants who had committed the murder of Ajinath and Bharat.

4. It is the submission of counsel for applicants that the statements which are recorded during the course of investigation of the witnesses themselves would show that they were informed by injured witness Krishna about the role of the present applicants Soni and Shashikala. He further submits that from perusal of the statement of injured witness Balkrishna @ Krishna Bhosale dated 19.1.2025 recorded

under Section 161 of Cr.P.C. , the applicants are alleged to have given exhortations and verbal abuses at the time assault was being carried out by other accused persons. The said statement of Krishna was recorded immediately after the incident i.e. 9.1.2025. It is the submission that , the police authorities had thereafter recorded statement of injured witness Krushna under Section 164 of Cr.P.C. exaggerating the the incident and even including the names of the present applicants Soni and Shashikala for the first time as assailants. It is submitted that there is variance in the statements of injured witness Krushna which would go to the benefit of the present applicants. At the most, looking to the evidence collected by prosecution, the presence of the applicants on the spot is made out, however, the role of assault is attributed to other accused, who are arrested and being prosecuted under the MCOC Act and two other accused persons are still absconding.

5. It is further submitted that no case is made out against the applicants, particularly, reading the evidence collected by the prosecution much less a case under the MCOC Act, inasmuch as, the applicants are not having any earlier offence against them to show that they are member of the syndicate. This is the first offence in which the applicants are involved alongwith other gang members, who are already prosecuted under the MCOC Act. He, therefore, prays that a finding, as contemplated under Section 21(4) of the MCOC Act can be recorded that no offence under the MCOC Act is made out against the applicants and that if they are released, they are not likely to commit any offence while on bail. The applicants are ready to cooperate with the investigation and that they shall not indulge into any criminal offence thereafter. He, therefore, submits that since the applicants are women arrested since 17.1.2025, further incarceration of the applicants may not be necessary.

6. As against this, Ms. R.R. Tandale, learned APP vehemently opposes the application on the ground that the applicants are named in the FIR filed by informant Chibba Adinath Bhosale, wherein, she has specifically stated the names of the present applicants to be the assailants present on the spot. She further submits that the statements of the witnesses would show that the applicant Soni who is also referred as Soni @ Anita @ Sonal, whereas, applicant Shashikala who is known as Kalinda, both were present at the time of murderous assault on deceased Ajinath and Bharat and injured witness Balkrishna @ Krishna. She further submits presence of the witnesses whose statements are record is also confirmed by injured witness Krishna, who has lateron stated that Soni and Shashikala were also present at the time of assault.

7. The learned APP further submits that applicants are having criminal record, inasmuch as, there are several cases registered against Soni @ Sonal @ Anita at Railway Upanagar Police Station, bearing Crime Nos. 29 of 2014, 110 of 2023, 115 of 2023 and 179 of 2023 under various sections. In sofar as applicant Shashikala is concerned, she submits that there are also offences registered against her bearing Crime Nos. 110 of 2023, 115 of 2023 and 179 of 2023 under Section 379 of IPC. As such, the applicants are part of a syndicate. The offence under the MCOC Act is made out even as against the applicants though they are shown as accused for the first time alongwith other members in the proposal and approval granted by the competent authorities under the MCOC Act.

8. She further submits that two accused are still absconding and there is every likelihood that the applicants, if released, may assist the absconding accused, who are already alleged to have given threats to the complainant and her family members. She, therefore, submits that this is not a fit case for grant of bail as there is every likelihood that the

applicants may again indulge in the offences of like nature. As such, she prays for rejection of the application.

8. The counsel for complainant assisting the prosecution adopted the arguments of learned APP. She further submits that there is an apprehension of danger to the lives of the witnesses if the applicants are released on bail. She, therefore, prays for rejection of the application.

9. I have gone through the entire record and the bulky charge sheet presented by learned APP and with their assistance, I have gone through the statements of Bhagubai Vilas Bhosale, Shital Ajinath Bhosale, Nanda Vilas Bhosale, Manisha Bharat Bhosale, informant - Chibba and Minita Balkrishna Bhosale. The statement of informant Chibba under Section 164 of Cr.P.C. recorded by the police does not name the applicant Soni and witness Minita does not name Shashikala in her statement under Section 161 of Cr.P.C. Thus, there is variance in the statement of the aforesaid two witnesses, in so far as the information received by them from the injured witness Balkrishna @ Krishna immediately after the incident. Further discrepancies can be seen from the statement of the injured witness Balkrishna @ Krishna, as in his statement under Section 161 of Cr.P.C., he does not name the applicants to be the assailants and are only given the role of starting verbal altercations with the two deceased – Ajinath and Bharat and injured witness Krishna. The applicants are also attributed role of exhortation at the time of assault. However, actual participation of the applicants in the assault is missing in statement of Krishna under Section 161 of Cr.P.C. It is interesting to note that the applicants Soni and Shashikala are brought on record through statement of Krishna under Section 164 of Cr.P.C. which is recorded after a period of 3 months from the date of incident. Thus, the discrepancy is glaring which cannot be ignored by this Court.

10. Section 21(4) of the MCOC Act reads thus :-

(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless— (a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and (b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail

The Honourable Supreme Court in the reported judgment in the matter of ***Union of India vs. Shri Shankar Kesari, (2007)7 SCC 798***, has held that the Court while considering the application for bail with reference to identical provision under Section 37 of the N.D.P.S. Act is not called upon to record a finding of not guilty. Similar restrictions are there in the above mentioned Section 21 of the MCOC Act. Therefore, it can be said that this Court is not called upon to record a finding of not guilty, however, it is for the limited purpose essentially confined to the question of releasing the accused on bail, when the Court is called upon to see if there are reasonable grounds for believing that he is not guilty and record a satisfaction about the existence of such ground. But, the Court has not to consider the matter as if it is pronouncing the judgment of acquittal and recording a finding of not guilty.

11. Bearing the aforesaid proposition of law it is necessary to look into the nature of allegations and the evidence that is collected by the prosecution during the course of investigation and circumstances to particular cases shall be determined in the backdrop of the fact, whether suspicion of the prosecution about the indictment of the accused is prima-facie true and correct.

12. Looking to the evidence that the applicant was admittedly

found on the spot making exhortations and uttering expletives without any overt act during the assault on deceased, I am of the opinion that there being no other involvement of the applicant/women alongwith other gang members and therefore, I am of the prima facie satisfaction that there are reasonable grounds for believing that the applicants are not guilty of such offence. Looking to the fact that the applicants are women having their families to look after and the arrest panchanama shows that applicant Shashkala was having one son, aged about 2.5 years and another son aged 1.5 months. As such, it can be said that if applicants are released there is a likelihood that they may not indulge into similar offences as the other family members of the applicants are already behind bars. However, the observations made above are prima facie in nature for deciding the present application and same shall have no bearing upon any proceeding before any other court. The apprehension of the learned APP and counsel for complainant can be taken care of, by imposing stringent conditions. I am, therefore, inclined to exercise the discretion in favour of the applicants upon arriving at a finding as noted above, so as to grant bail to the present applicants.

11. Hence, the following order :-

ORDER

[I] The application is allowed ;

[ii] The applicants – Soni @ Anita Gorakh Bhosale and Shashikala w/o. Deepak Bhosale be released on bail, on furnishing P.B. and S.B. in the sum of Rs. 25,000/- each, in connection with Crime No. 0031 of 2025, registered with Ambhora Police Station, District Beed, for the offences punishable under Sections 103-1, 109, 189-2, 191-2, 191-3, 190 of the Bhartiya Nyaya Sanhita and under Sections 3(1)

(i) and 3(2) and 3(4) of the MCOC Act, on the following conditions :-

[i] The applicants shall not enter the municipal limits of Ashti Taluka, except for attending the Police Station, Ambhora every Monday from 11.00 a.m. to 1.00 p.m. on 1st day of every month till framing of charges.

[ii] The applicants shall attend the trial regularly without fail, except in emergency cases, for which they shall seek exemption from the learned trial court.

[iii] The applicant shall submit their PAN card and Aadhar Card to the Investigation Officer and also submit their current address and mobile number alongwith the mobile number and addresses of two near relatives.

[iv] The applicants shall not tamper with the prosecution evidence and shall not influence the witnesses.

[v] It is made clear that a single reported incident of any offence committed by the applicants would entail in the consequences of cancellation of bail granted to the applicants.

[vi] The application is disposed of. Criminal Application No. 3311 of 2025 for permission to assist the prosecution is accordingly disposed of.

[MEHROZ K. PATHAN]
JUDGE.

grt/-