



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 761 OF 2025

KRUSHNA CHHAGAN GAIKWAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Shri Patil Jitendra V., Advocate for the Appellant.

Shri V.M. Lomte, APP for Respondent Nos.1 and 2/State.

Shri Jadhav Yogesh Arun, Advocate for Respondent No.3.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 19 December 2025

P. C. :-

1. By this appeal filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS') r/w Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short, 'the Atrocities Act'), the appellant/accused No.10 seeks Regular Bail in connection with the FIR bearing Crime No.485 of 2022 dated 14.11.2022 registered with the Chalisgaon Police Station, District Jalgaon, for the offences punishable under Sections 307, 324, 143, 144, 147, 148 & 149 of the Indian Penal Code (for short, 'the IPC'), under Sections 37(1) and 37(3) of the

Maharashtra Police Act, under Sections 3(1)(r)(s), 3(2)(v-a) of the Atrocities Act and under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (for short, 'the MCOC Act').

2. The present respondent No.3 (Ankit Mahendra More) is the son of the original deceased informant (Mahendra Bhagwat More).

3. The prosecution story is as under:-

(a) The deceased informant Mahendra lodged the report and on the basis of his report, Crime No.485/2022 was registered on 14.11.2022. It is stated in the report that in the month of October 2022, he had sent his sons Ankit and Aniket to Nashik to attend educational classes and they were residing in hotel at Uttam Nagar, Nashik.

(b) On 15.10.2022, the informant's son Ankit informed on mobile phone that accused Shyam @ Syam Chavan R/o. Hirapur Tal.Chalisgaon was giving threat to him on mobile phone. Therefore, the informant's son Ankit lodged the report at Ambad Police Station, Nashik, upon which, non-cognizable

offence bearing No.3482/2022 was registered. However, the informant called Ankit at Chalisgaon as he felt danger to the life of Ankit. On that day, the police from Chalisgaon Rural Police Station, District Jalgaon, called the informant and his son Ankit as accused Shyam @ Syam Chavan had been to said police station to lodge report. Therefore, they went to the Chalisgaon Police Station with the informant's friend Tulshiram Andhore, at that time the accused Shyam @ Syam Chavan was informing the police about abused given by the informant's son Ankit. Thereupon, the informant told police about lodging report at Ambad Police Station. It is further alleged that, accused Shyam @ Syam Chavan and one Santa Pahalwan, Ramesh Nikam, Uddesh Shinde, Baba Bhosale, Anis Shaikh, Sachin Gaikwad, Jayesh Patil and unknown 20-30 persons abused the informant. The informant had not lodged any report about said incident.

(c) It is further stated that, subsequently Ankit informed the informant that Ankit's friend Harshal Rathod obtained Rs.50,000/- on interest from Sumit Bhosale with the help of Rohit Gavali. As amount was not paid within time, Sumit Bhosale and Santa Pahelwan beat Rohit Gavali at Hifi Hotel,

Chalisgaon. It is also stated that, the accused persons, namely, Amol Gaikwad, Sachin Gaikwad, Krushna Gaikwad (present appellant), Shyam @ Syam Chavan and Uddesh Shinde are working as recovery agents of Sumit Bhosale and Santa Pahelwan. Harshal Rathod had repaid the amount on 05.10.2022, but the accused persons were harassing Harshal for the demand of excess amount. Therefore, the informant's son met Sumit Bhosale and Santa Pahelwan and assured that, he will pay the amount on behalf of Harshal Rathod but as he went to Nashik he could not repay the money. Therefore, the accused Shyam @ Syam Chavan was abusing and threatening the informant on mobile phone.

(d) On 13.11.2022 at about 2.30 p.m., the informant's son Ankit went to purchase cake in shop near Central Bank on Station Road with his friends Harshal Rathod and Pruthviraj Sonawane on the occasion of birth of the informant. At about 3.00 p.m., another son of the informant Sanket informed on mobile phone that some boys assaulted Ankit in front of the Central Bank near college gate by means of chopper and Ankit has sustained grievous injury and they were taking him to Deore

Hospital. Thereupon, the informant immediately went to Deore hospital where he saw his son Ankit was under treatment. The informant saw that Ankit had sustained several severe injuries by means of chopper. At that time, Ankit informed that, when he was in front of Central Bank at about 2.30 p.m. accused Shyam @ Syam Chavan, Uddesh Shinde, Amol Gaikwad, Krushna Gaikwad (present appellant), Yogesh Panchal and other 3-4 persons rushed towards them having chopper, wooden stick, wooden planks with spoke in their hands and started beating them. Out of them, the accused Sachin Gaikwad assaulted Ankit by means of chopper on his right leg and thigh, Krushna Gaikwad (appellant) assaulted him by means of chopper on his right calf and the accused Yogesh Panchal assaulted on the bottom of legs by means of chopper. Accused Jayesh Patil, Uddesh Shinde, Krushna Gaikwad (appellant), Shyam @ Syam Chavan, Vikky Pawali assaulted with wooden stick and wooden planks on his head, back, stomach and assaulted Harshal on his back and neck. On the basis of these allegations, the said report came to be lodged.

4. After registration of the FIR on 14.11.2022, the

appellant came to be arrested on 19.01.2023 and since then he is behind bars. After completion of investigation, the charge-sheet is filed and the case is registered as Special (MCOCA ATRO) Case No.131/2023.

5. The learned advocate for the appellant submitted that the learned Additional Sessions Judge, Jalgaon, has erroneously rejected the bail application vide order dated 14.11.2024. According to him, the present appellant has been falsely implicated on suspicion and the prosecution has not established the fact that the appellant is a member of organized syndicate. The learned advocate submitted that there is no legal bar to release the appellant on bail under section 21(4) MCOCA Act. According to him, the complaint is lodged due to political rivalry. The injuries caused to injured are simple in nature, there is no danger to the life of the injured and he was discharged from the hospital. The learned advocate submitted that Cr.R. Nos.450/2021 and 174/2020 registered against the appellant are in his personal capacity and not as organized crime.

6. The learned advocate for the appellant further submitted that there are total 11 accused persons and out of them,

nine accused persons have already been granted bail. The trial is pending since the year 2022 and the appellant is languishing in jail since 19.01.2023. The role attributed to the appellant is similar to that of other accused persons, who have been granted bail and, therefore, the learned advocate claims parity as per other accused persons. Since the charge sheet is filed, physical custody of the appellant is not required. If he is released on bail, the appellant will not abscond and will abide by the conditions imposed by this Court. The learned advocate, therefore, prayed for grant of regular bail. In support of his submissions, he has relied upon the judgments of the Hon'ble Supreme Court in *Javed Gulam Nabi Shaikh vs. State of Maharashtra and others*, (2024) 9 SCC 813 and *Union of India vs. K.A. Najeeb*, (2021) 3 SCC 713.

7. On the other hand, the learned APP has strongly opposed the appeal by submitting that many accused in the crime were operating as gang members and many accused are absconding. Some of the accused, which are part of the syndicate have committed murder of the informant Mahendra Bhagwan More on 07.02.2024 by hatching a conspiracy. It is specifically

pointed out that first two bail applications of the appellant were rejected by the Trial Court. According to him, the appellant attempted to commit murder of the injured and he is habitual offender. The appellant also assaulted witness Harshal Rathod on his head by means of wooden log. Therefore, Sessions Case No.111/2020 and Special Case No.271/2022 are pending against the appellant. The learned APP submitted that the appellant was granted bail in Special Case No.271/2022 and after release, he committed similar types of offences and violated the terms and conditions of the bail order which shows that, the appellant is not law abiding person. The appellant also threatened the witness Rohit Gawali, hence N.C.NO.1323/2022 was registered against him. Offence is serious in nature, possibility of commission of similar offence by the appellant cannot be ruled out. Therefore, the present appeal be rejected.

8. I have also heard the learned advocate for respondent No.3/ son of the informant, who adopted the submissions of the learned APP and further submitted that in order to grant bail, this Court is required to consider the provisions of Section 21(4) of the Act. According to him, there is

specific bar as regards releasing the accused persons on bail unless two conditions are satisfied. One test is that this Court has to give finding that there are reasonable grounds for believing that the accused is not guilty of such offences under the MCOC Act and second is that, the accused is not likely to commit any offence while on bail. However, in this case, several offences committed by the appellant would show that he is having no regard for law and order of the society and it cannot be held that he is not likely to commit any offence while on bail. The learned advocate has pointed out the offences registered against the appellant and the members of his gang. The learned advocate, therefore, prayed for rejection of this appeal.

9. In this case, the offences alleged pertain to the special statute enacted for the special purpose of prevention and control of criminal activities by organized gangs so as to tackle the black money generated from contract killings, extortion, drug trafficking, and kidnapping. Therefore, parameters for grant of bail in such offences are different. As such, the parties are extensively heard even at the stage of grant of bail pending trial.

10. After perusal of the record, it is evident that after

grant of bail to some of the accused persons of the syndicate, they have committed murder of the informant on 07.02.2024. Thus, the accused persons, who were released on bail, have committed another heinous crime. Moreover, in this case, the provisions of the MCOC Act are invoked, therefore, while considering the bail application, this Court is required to see that the twin test as contemplated under Section 21(4) is satisfied or not.

11. The Hon'ble Supreme Court in *State of Maharashtra vs. Vishwanath Maranna Shetty, (2012) 10 SCC 561*, observed that having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the Court may have to probe into the matter deeper so as to enable it to arrive at a finding that the material collected against the accused during the investigation may not justify the judgment of conviction. So also, the Court is required to record the finding as to the possibility of his committing a crime after grant of bail.

12. In this case, the statements of eyewitnesses and recoveries effected at the instance of the appellant and other accused persons are itself sufficient to *prima facie* observe that

there are no reasonable grounds for believing that the appellant is not guilty. Therefore, answer to the first condition as regards whether, the present appellant has *prima facie* not committed the offence or he is *prima facie* not guilty of the said crime, is in negative. As regards answer to the second condition, whether, the appellant would commit similar offence if released on bail, is also in negative. Previous criminal antecedents against the present appellant and the fact that the other accused of his gang after released on bail, have committed another heinous crime of murder, would itself go to show that there is every likelihood that if the appellant is released on bail, he will commit another offence. As such, the appellant has failed to satisfy the twin test as prescribed under Section 21(4) of the MCOC Act.

13. The Hon'ble Supreme Court in ***Neeru Yadav vs. State of Uttar Pradesh, (2016) 14 SCC 422***, has observed that while granting bail, the Court has to keep in mind some important aspects such as (a) not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations; (b) reasonable apprehensions of the witnesses being

tampered with or the apprehension of there being a threat for the complainant; (c) there ought to be prima facie satisfaction of the court in support of the charge; (d) nature and gravity of the accusation; (e) danger of the accused absconding or fleeing, if released on bail; (f) character, behaviour, means, position and standing of the accused; (g) likelihood of the offence being repeated; and (h) danger of justice being thwarted by grant of bail.

14. The Hon'ble Supreme Court in *NIA v. Zahoor Ahmad Shah Watali*, (2019) 5 SCC 1, observed that in cases involving organised crime, the interest of the community outweighs individual liberty at the stage of bail. The Maharashtra Control of Organised Crime Act, 1999 is a special statute enacted to combat organised crime, which by its very nature poses a grave threat to public order and the administration of justice. The Hon'ble Supreme Court in *Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra*, (2005) 5 SCC 294, and *State of Maharashtra v. Vishwanath Maranna Shetty*, (2012) 10 SCC 561, has categorically held that the restrictions imposed under Section 21(4) of the Act are in addition to the limitations under Section

439 of the Code of Criminal Procedure. The satisfaction contemplated under Section 21(4) is something more than a *prima facie* view and requires the Court to record a finding based on reasonable grounds. Recently, in ***Jayshree Kanabar v. State of Maharashtra*, (2025) 2 SCC 797**, the Supreme Court reiterated that liberal considerations applicable in ordinary criminal cases cannot be extended to prosecutions under MCOCA. Therefore, while dealing with bail under the Act, the Court is statutorily bound to apply a stricter and cautious approach, keeping in view the object of the legislation and the societal interest involved.

15. The reliance placed by the learned advocate for the appellant on the judgments in ***Javed Gulam Nabi Shaikh v. State of Maharashtra*** and ***Union of India v. K.A. Najeeb*** is misplaced. In both the said decisions, the Hon'ble Supreme Court was dealing with cases where there was prolonged incarceration and absence of sufficient material. In the present case, not only the material collected by the prosecution discloses the active role of the appellant in the organised crime syndicate, but subsequent events, including commission of heinous offence by co-accused after release on bail, clearly demonstrate the continuing threat

posed by the syndicate.

16. In view of the above discussion, the appellant is not entitled to be released on bail. The Criminal Appeal fails and it is dismissed.

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(SUSHIL M. GHODESWAR, J.)