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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.503 OF 2025

Laxman @ Lucky S/o. Balaji More,
Age: 25 years, Occu.: Education,
R/o. Sanmitra Nagar, Mudkhed,
Tq. Mudkhed, Dist. Nanded.

... Applicant

Versus

The State of Maharashtra
Through Police Inspector,
Itwara Police Station,
Dist. Nanded.

... Respondent

**WITH
BAIL APPLICATION NO.577 OF 2025**

Digambar Topaji Kakde,
Age: 31 years, Occu.: Labour,
R/o. R/o. Hanuman Mandir,
Tq. Old Kautha, Nanded

... Applicant

Versus

The State of Maharashtra

... Respondent

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Mr. Santosh C. Bhosle, Advocate for Applicant in BA/503/2025
Mr. Abhaysinh k. Bhosle, Advocate for Applicant in BA/577/2023
Mr. V.M. Chate, APP for Respondent - State

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 05 MAY 2025

PRONOUNCED ON : 06 MAY 2025

PER COURT :-

1. Both above applications are in consonance to arrest in
Crime No.0176 of 2021 registered at Itwara Police Station,

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District Nanded for offences punishable under Sections 302, 307, 120(B), 294, 107, 143, 147, 148, 149 of the Indian Penal Code (IPC) and under Sections 3/25, 4/25 and 27 of the Arms Act and under Sections 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime (MCOC) Act, 1999.

2. It is pointed out that applicant in Bail Application No. 503 of 2025 is arrested on 09.08.2021; whereas, applicant in Bail Application No.577 of 2025 is arrested on 29.07.2021 and are behind the bars for almost more than 3 ½ years. It is pointed out that other co-accused are already granted bail by this Court. That, primarily, the previous Courts, while dealing with the bail applications, had noted that different versions regarding the use of arms were stated by the informant and the so-called witnesses, and as such, there is apparently false implication. That, there are allegations of use of firearms. Even the persons, who allegedly used firearms as well as the person, who is said to be main conspirator are already granted bail. Their bail orders are placed on record. Therefore, on the ground of parity, learned counsel urges for grant of bail.

3. Similar arguments advanced by the learned counsel appearing for the applicant in Bail Application No.577 of 2025.

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4. Both above applications are answered and opposed by the learned APP by pointing out that, apart from committing a brutal murder, thereby inflicting 14 injuries. That, there being criminal antecedents. That, serious offence of murder is committed. That, it is a group rivalry. That, there is use of deadly weapons like firearm, sword and knife are used. That, the statements of the informant and other witnesses recorded under Sections 161 and 164 of the Cr.PC. are consistent. Thus, though charge-sheet is filed and other co-accused are granted bail, learned APP strongly opposed the above applications.

5. Heard. Perused the papers. FIR dated 21.07.2021 is at the instance of one Suraj Bhagwan Khiradi. Sum and substance of the same is that, informant, Vicky Thakur, Nikhil Madne, Bajran Kundgir, Iswar Girniwale are friends, who used to gather near Mamta Pan Shop. He further reported that, they had friends named Vicky @ Vikram Ramsing Chavan, but he was murdered by one Kailash Bighaniya and his associates and since then, there was Kailash was in cross terms. He reported that, brother of Kailash namely, Nitin Bighaniya was repeatedly issued life threats. He further reported that, on 02.07.2021, when he had been to Court premises to meet Lakhan Thakur, that time, police

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party also brought Kailash Bighaniya, and at that time, it is alleged that, he had issued threats to not to spare him alive. He further reported that, at that point of time, even sister and wife of Nitin Bighaniya had also issued threats in the Court premises itself. That, 2 to 3 days thereafter, Jyoti Bighaniya made a phone call and issued threats to kill, and therefore, report to that extent is lodged with Nanded Gramin Police Station. He further reported that, on 20.07.2021, around 07:30 p.m., when informant, and Vicky Thakur were near the house of Nikhil Madne, at that time, Lucky More (applicant in BA/503/2025) was seen keeping a watch on them, and upon being noticed, it is alleged that the present applicant managed to flee through a narrow lane. Informant claims that, while he and Vicky Thakur near Mamta Pan Shop, at that time, two black motorcycles came occupied by Mujaji @ Gabya Dhongade and another person Nitin Bhiganiya was also there. Nitin got down and initially abused and made firing. Person sitting on another motorcycle namely, Gangaram Bhokre, Digambar Kakde (applicant in BA/577/2025), and Lucky More (applicant in BA/503/2025) were there, and Gangaram was also occupied with firearm. He further alleged that, when informant and Vicky Thakur were fleeing from there, Vicky Thakur accidentally failed, and he was

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seen being fired. It is alleged that, at that time, Digambar Kakde (applicant in BA/577/2025), Mujaji Dhongade @ Gabya and Lucky More (applicant in BA/503/2025) made assault by means of sword. Informant claims to have managed to reach the police station and report.

Therefore, so far as the Lucky More (applicant in BA/503/2025) is concerned, his role is defined for use of the sword for assaulting Vicky Thakur along with Digambar Kakde (applicant in BA/577/2025) and Mujaji Dhongade.

6. The principal grounds raised for bail are that the co-accused have been granted bail, and that different versions regarding the use of arms were given at two distinct time. This Court appears to have granted bail to Somesh Kate, who moved Bail Application No. 1882 of 2024, on the ground of parity. Similarly, the accused Krishna @ Kinna Pardeshi (Thakur), who moved Bail Application No. 1840 of 2024, was granted bail on the ground that his role was not specified, and moreover, the role attributed to him was alleged at a belated stage, after a lapse of four months. Kailash Bighaniya seems to be also a beneficiary of regular bail in Bail Application No.2180 of 2024 as allegations were only found to being part to the conspiracy.

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Similarly, Mujaji and Gangadhear were granted bail by this Court on 11.03.2025 in Bail Application Nos.261 of 2025 and 264 of 2025, respectively. Their roles were spelt out in paragraph No.6 of the order. As regards accused Mujaji is concerned, charge-sheet shows that there were allegations against him for conspiring with main accused Nitin bringing him to the said spot on a motorcycle, instigating him and helped him to flee. Whereas, accused Gangadhar was granted bail in view of the accusation recorded in charge-sheet that he conspired with main accused Nitin, who took money from him and arranged firearms. Therefore, considering their such role, their bail applications have been allowed.

7. After going through the FIR, role attributed to Mujaji Dhongade and present applicants is almost identical. However, as sated above, bail was granted to Munjaji was after considering the findings upon investigation, which are reflected in the charge-sheet. Therefore, when similarly situated accused like Munjaji, who has allegedly used sword is granted bail, even present applicants deserve similar benefit. As pointed out, initially, allegations were of use of sword and subsequently allegations of use of pistol. Statements of so called witnesses are recorded at belated stage.

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8. Considering the month and year of arrest, and month and year of filing of charge-sheet, this Court had called the report from the learned trial Judge, who is seized with the matter. Report dated 21.04.2025 is received, and it is emerging that in the Special Case, 59 witnesses are proposed to be examined and there are 11 accused, who are being represented by different counsel. Learned trial Judge has conveyed that the charge-sheet is running over 1400 pages. Further, learned trial Judge has candidly conveyed that there are 42 under trial matters lying in his Court along with 5 cases under MCOC Act. Further, it is conveyed that, he will try to dispose of the matter as early as possible. Thus, report does not show any approximate time period, within which Sessions Trial would commence or conclude. Applicants are reported to be behind the bars since 2021. Therefore, on the ground of long incarceration coupled with ground of parity, relief as prayed deserves to be granted. Hence, the following order :

ORDER

- (i) Applications are allowed.
- (ii) The applicants, namely, Laxman @ Lucky S/o. Balaji More [Bail Application No. 503 of 2025] and Digambar Topaji Kakde [Bail Application No. 577 of 2025] be released on bail in connection with Crime No.0176 of 2021 registered at Itwara

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Police Station, District Nanded on executing Personal Bond of Rs.50,000/- each with one surety by each in the like amount on following conditions:

- [a] The applicants shall not tamper prosecution evidence.
- [b] The applicants shall not enter the vicinity where the informant and his family members reside, till conclusion of trial.
- [c] The applicants shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
- [d] The applicants shall attend the concerned police station three times in every weeks i.e. on Monday, Wednesday and Friday and maintain personal diary of their attendance, till conclusion of trial.
- [e] The applicants shall also regularly attend each and every effective date before the trial Court.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane