

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 3428 OF 2025

Guas @ Nihal Gabbar Momin

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Kunal Patil i/b Ms. Rajnandini Katkar and Adv. Asif Savarmulla,
Advocate for the Applicant.

Mr. A. S. Shalgaonkar, A.P.P., for the Respondent – State.

Ms. Rupali Gaikwad, Mahatma Gandhi Chowk Police Station, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 26th NOVEMBER, 2025.

P.C. :

1. By this application, the Applicant is seeking regular bail in connection with C.R. No.312 of 2022 registered with Mahatma Gandhi Chowk Police Station, Miraj, District Sangli, for the offences punishable under Sections 394, 341, 323, 427, 504, 506 read with Section 34 of the Indian Penal Code, 1860 (for short, “IPC”) and under Section 3(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (for short, “MCOCA Act”).

2. It is prosecution’s case that on 15th September 2022, at

around 8:30 pm., while the first informant was travelling in his vehicle, at that time, the Applicant and co-accused intercepted him, and assaulted him, and took out Rs.2200/- from his pocket. It is alleged that a Mahindra Bolero vehicle arrived at the spot, the Applicant and the co-accused also damaged said Bolero vehicle and took out an amount of Rs.700/- from the driver's shirt pocket and ran away from the incident spot.

3. It is contention of learned counsel for the Applicant that the Applicant is behind bar for more than three years. There is no progress in the trial, and requested to allow the application.

4. It is contention of learned APP that the Applicant and co-accused assaulted the first informant and witnesses and took out money from their shirt pockets. The Applicant has antecedents. If the Applicant is released on bail, he may threaten the first informant and prosecution witnesses, and requested to reject the application.

5. I have heard both learned counsel, perused F.I.R. and documents produced on record.

6. The co-accused having similar allegations are released on bail. The Applicant is behind bar for more than three years, but there is no progress in the trial.

7. As observed earlier, the Applicant is behind bar for more than three years, but during this entire period, he was produced before the trial Court only once. It is a matter of serious concern that an accused who is in custody for three years has been produced only on a single occasion before the Court.

8. This Court has observed in several matters that charges are not being framed against accused person even though they are in custody for couple of years. This Court had called reports from the various concerned Judges, and one of the main reasons for delay in framing charge is non-production of the accused from jail before the learned trial Court.

9. The learned APP pointed out in the Judgment of *Criminal Appeal - SLP (Cri.) No.12939 of 2024 Sidhant @ Sidhant Balu Taktode Vs. The State of Maharashtra and Ors.*, wherein the issue about the trial is being prolonged on the ground that the accused is not produced before the trial Court either physically or virtually. It is also observed that this is not a solitary case but in many cases, such a difficulty arises. Therefore, the Hon'ble Apex Court directed the Registrar General of the High Court of Judicature at Bombay, Home Secretary of the State of Maharashtra and Secretary of Law and

Justice, to sit together and evolve a mechanism to ensure that the accused are produced before the trial Court either physically or virtually on every date and the trial is not prolonged on the ground of non production of the accused persons. However, till today, no action is taken by the State of Maharashtra. Learned APP has also produced a letter issued by the Jail Authority to the concerned District Courts, stating that direction be given to the Jail Authority to produce the accused before respective trial Courts either physically or virtually. However, no such direction is issued by the concerned District Courts.

10. Considering these facts, it is necessary to issue directions to all the Principal District Judges across the State of Maharashtra:-

- “A) Direct the concerned District Judge/Sessions Judge/Special Judge to send email to the concerned Jail Authority regarding the presence of the concerned accused/under-trial prisoner for the effective hearing on given date prior to eight days of said date;
- B) The e-mail containing Crime Registered Number, Case Number, Name of Accused, Court Number, Name of respective Court with next date of Hearing with all above particulars should specifically be mentioned and communicated without fail to the Jail Authority;
- C) Direct the concerned Sessions Judge and Special Judge wherein the physical presence of under-trial accused is

very much necessary, it shall be communicated in advance to the concerned Jail Authority. Otherwise, the concerned Judge must take steps to ensure the presence of under-trial accused through video conferencing facility available with Jail Authority for hearing of trial date;

D) If the accused is not produced before the concerned Trial Court consecutively for two dates, the concerned Court shall make enquiry as to why the accused was not produced before him/her and take necessary steps to ensure presence of the accused on the next date;

E) The Principal District Judge and Legal Services Authority shall ensure effective implementation of these directions and also hold meeting once in a month to review the implementation;

11. The Registrar General of this Court is directed to communicate this order to all the Principal District Judges across the State of Maharashtra for effective implementation of above directions.

12. The right to speedy trial is an intrinsic part of Article 21, any unwarranted delay defeats the very purpose of it. It is of paramount importance that the accused be produced before the trial Court either physically or virtually to avoid prolonged and unjustified incarceration without trial. Production of accused before the trial

Court on scheduled dates regularly is essential for meaningful advancement of trial. All District and Sessions Courts along with Jail Authorities across the State of Maharashtra shall act in close co-ordination and adopt a proactive and stringent approach to secure the timely production of accused persons before the Court.

13. In view of above, I pass following order:

ORDER

- i. Application is allowed.
 - ii. The Applicant be released on bail in connection with C.R. No.312 of 2022 registered with Mahatma Gandhi Chowk, Police Station, Miraj, District: Sangli, on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
 - iii. The Applicant shall attend the concerned police station as and when required.
 - iv. The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
14. The application is allowed in the aforesaid terms and is accordingly disposed off.

15. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.
16. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)