

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3539 OF 2025**

Arvind Shankar Patil	...Applicant
Versus	
The State Of Maharashtra	...Respondent

Mr. Harshad Nimbalkar, Senior Counsel a/w Mr. Sajid Mahat, Advocate for the Applicant.

Mr. Raja Thakre, ASG a/w Ms. Veera Shinde, APP, and Mr. P. H. Gaikwad, A.P.P., for the Respondent – State.

Mr. Kuldeep Patil a/w Mr. Ranjit Patil, Mr. Mahesh R. Bhosale and Mr. Dhavalsinh Patil, Advocate for the Intervenor.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th DECEMBER, 2025.

P.C. :

1. By this application, the Applicant is seeking regular bail in connection with C.R. No.3 of 2020 registered with Bhilvadi Police Station, Sangli, for the offences punishable under Sections 302, 341, 120-B, 201 read with Section 34 of the Indian Penal Code, 1860 (for short, “IPC”) and Sections 4 and 25 of the Arms Act, 1959 along with Sections 3(1)(i)(ii), 3(2), 3(4), 3(5) of the Maharashtra Control of Organised Crime Act, 1999 (for short, “MCOCA”).

2. It is prosecution's case that on 2nd February 2020, the deceased, Anandrao Patil, was assaulted by two unknown persons with sickle and murdered him. In investigation, it revealed that the present Applicant and the Accused Nos.3 had land and financial dispute with the deceased. They hatched conspiracy to eliminate the deceased. Accordingly, they gave contract of murder of the deceased to accused no. 1 and the accused no. 4 through the accused no. 5. Accordingly, the accused nos. 1 and 4 murdered the deceased. It is alleged that motorcycle used in crime belongs to the applicant.

3. It is contention of learned senior counsel for the Applicant that the Applicant has been falsely implicated in this case. He is behind bar for more than five years and ten months. The earlier bail application was withdrawn by the Applicant with liberty to file fresh bail application after ten months, if trial is not concluded within said period. The ten months' period is over but the trial is not completed. Learned counsel further submitted that the allegations against the Applicant are of conspiracy, to prove it, evidence is required. The statement of witness who allegedly overheard the conversation of the conspiracy is recorded after six months of the conversation in question. This witness is brought up witness and cannot be relied

upon. Learned counsel further submits that though it is prosecution's case that the deceased had paid Rs. 65 Lakhs to the applicant for agreement of land but bank account shows that only Rs. 50,000/- had been transferred by the deceased in the bank account of the applicant. Learned counsel further submitted that alleged recovery of motorcycle used in crime is shown to have been made from an open field, therefore, holds no merit. Learned counsel further submitted that call records between the applicant and the co-accused cannot show conspiracy or prior meetings of the mind. Hence, requested to allow the application. He relied on *Haricharam Kurmi Vs. State of Bihar, 19654(2) Cri. Law Journal 344*.

4. It is contention of learned ASG along with learned counsel for intervener that the Applicant is the kingpin of the present offence. He had land and monetary dispute with the deceased. The Applicant had motive to kill the deceased. Accordingly, he conspired with the Accused No. 3. The statement of witnesses are recorded to prove the conspiracy. The statement of Accused Nos.1 and 3 are recorded under Section 18 (1) of the MCOC Act which are admissible in evidence, and they have specifically stated about role of the present Applicant. It is further submitted that there were 16 calls between the Applicant

and the Accused No.1, 288 calls between the Applicant and Accused Laxman Madiwal and 17 calls between the Applicant and Accused No.5. The Applicant provided motorcycle to the accused nos. 1 and 4, which was used in crime. He had given Rs.1,00,000/- to the accused no. 1. Learned ASG further submitted that the trial is delayed due to non co-operation of the accused himself. As the trial is in progress, bail cannot be granted to the Applicant. If the Applicant is released on bail, he may abscond or threaten the prosecution witnesses, and requested to reject the application. He relied on *X ... Petitioner Vs. State of Rajasthan and Anr. 2024 SCC OnLine SC 3539*.

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

6. This is the second bail application of the Applicant. The earlier bail application was withdrawn with liberty to file fresh bail application after ten months, if trial is not concluded within ten months. As the trial has not been concluded, the Applicant filed bail application before the Trial Court, after rejection of the said application, he approached this Court.

7. The allegations against the Applicant are that he is kingpin of the present crime. There was a monetary dispute between the

Applicant and deceased. He and accused no. 3 allegedly gave contract to the accused nos. 1 and 4 through accused no. 5 to eliminate the deceased. The conspiracy was hatched near one petrol pump on Bhilwadi road. The police has recorded the statement of witness Vaijnath Mundhe on 2nd March 2020 who is cab driver. He has stated that before six months, his cab was hired by the accused no. 5 for attending family function. After attending family function, the accused no. 5 told this witness to take his car on Bhilwadi road, near one petrol pump, the present applicant and accused no. 3 were standing there. The accused no. 5 introduced the applicant and the accused no. 3 to this witness. Thereafter, they went aside and this witness overheard their conversation. It is heard that the applicant and the accused no. 3 were asking the accused no. 5 about taking contract to kill the deceased. It is contention of learned ASG that mobile location of the applicant and the accused no. 3 with accused no. 5 shows they were present on said spot, which supports the prosecution's case, whereas it is contention of learned senior counsel for the applicant that statement of this witness is recorded after six months, it is not reliable.

8. In my view, this witness is independent witness, his car was

hired by the accused no. 5. The mobile location of the applicant and the accused no. 3 matches with the evidence of this witness or not is part of evidence. It appears from the call records produced on record that there were several calls between the applicant and co-accused during that period. The applicant himself admits that the deceased had transferred Rs. 50,000/- in his bank account, it supports the prosecution's case about financial transaction between them. It is alleged that the motorcycle used in crime belongs to the applicant.

9. The accused Nos. 1 and 3 have given confessional statements under Section 18(1) of the MCOC Act. These statements show involvement of the applicants in present crime. Later on, they retracted these statements. It is settled law that retracted statements are weak evidence and corroboration is required for proving it. However, evidentiary value of such retracted confessions is a matter to be adjudicated during the course of trial.

10. Considering above facts, it appears that there is strong prima facie case against the applicant. The prosecution has examined nine witnesses. The applicant is an influential person in that area. If he is released on bail, he may influence the prosecution witnesses. Moreover, after his release, the co-accused may seek bail on principle

of parity and the trial which is in progress may be prolonged. Moreover in my view, when once trial is started and material prosecution witnesses are in the process of being examined, the applicant cannot claim bail on merit. It may adversely affect fair conduct of the trial.

11. The Hon'ble Apex Court in the case of ***X Vs. State of Rajasthan and anr¹*** has observed that :

“once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.”

12. There is no delay in trial because of prosecution's side. There are five advocates representing each accused. They take dates as per convenience, it is one of the reasons for delay. I have gone through the case law cited by the learned senior counsel for the applicant. The facts of cited case and the present case are different, hence, not applicable. As observed earlier, there is strong prima facie case against the applicant.

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

¹ 2024 SCC Online SC 3539

ORDER

The Application is rejected.

14. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)