

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 300 OF 2024

Farooq Shaukat Bagwan	]	
Aged : 39 years, Occu: Business	]	
305, Ghorpade Peth, New Galaxy Building,	]	
3 rd Floor, Flat No. 8-B, Pune – 42.	]	
(Presently in Judicial Custody at	]	
Mumbai Central Prison, Mumbai)	]	... Appellant

V/s.

The State of Maharashtra	]	
(At the instance of ATS, Mumbai)	]	... Respondents

Mr. Mubin Solkar a/w Mr. Tahir Hussain, Mr. Anas Shaikh, Mr. Hemal Shah
and Ms. Tahera Qureshi for Appellant.
Mr. Vinod Chate, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

RESERVED ON : 11th August 2025

PRONOUNCED ON : 9th September 2025

JUDGMENT : (Per:- A.S. Gadkari, J.)

1) By this Appeal under Section 21(4) of the National Investigation Agency Act (for short NIA Act), the Appellant has impugned Order dated 1st September 2021, passed by below Exh. 282 in MCOCA Special Case No. 7 of 2013, rejecting his Application for bail, under Section 439 of the Code of

Criminal Procedure (Cr.PC.)

1.1) Appellant is original accused No. 6 in the said MCOCA Special Case No. 7 of 2013. The said case is culmination of investigation of C.R. No. 09 of 2012 by ATS Police Station, Mumbai (originally registered as C.R. No. 168 of 2012 with Deccan Police Station Pune), for the offences punishable under Sections 307, 435 and 120-B of the Indian Penal Code (IPC) read with Sections 3, 4 and 5 of the Explosive Substances Act, read with Sections 3, 25 of the Arms Act, read with Sections 16(1) (b), 18, 20, 23, 38 and 39 of the Unlawful Activities (Prevention) Act, 1967 Amendment 2008, read with Sections 3(1) (ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act).

2) It is the prosecution case that, on 1st August 2012, approximately between 19.25 to 23.30 hours five low intensity explosions took place in the city of Pune. In the said blasts, one person was injured. Apart from five bomb blasts, one live bomb was found in the carrier basket of Hero Street Ranger black colour bicycle, parked opposite Zodiac shop near Axis Bank on Jangli Maharaj Road, Pune. The same was defused by the Bomb Detection and Disposal Squad, Pune. Accordingly, initially C.R. No. 168 of 2012 was registered with Deccan Police Station, Pune. The said crime was subsequently transferred for further investigation with ATS Police Station, Mumbai. During the course of investigation, it was revealed that, the motive behind commission of the said crime was to cause mass destruction of life and

property and to strike terror in the minds of general public at large. The accused persons had conspired to cause the said blasts, to take revenge of the death of one Mr. Qateel Siddique, an Indian Mujahedeen operative, who was killed in Yerwada Prison, Pune, on 8th June 2012. In all 9 accused persons were arrested in the said crime. The Appellant has been arrested on 26th December 2012 and since then, he is behind bars. After completion of investigation, the police have filed charge-sheet.

3) Mr. Solkar, learned counsel appearing for the Appellant submitted that, the Appellant is behind bars for more than 12 ½ years. That co-accused namely Munib Iqbal Memon (A-5), who was also arrested on 26th December 2012 by the Respondent, has been granted bail by the co-ordinate Bench of this Court by its Judgment dated 20th September 2024. That, the role played by the Appellant herein is either same or similar to that of co-accused Munib Iqbal Menon (A-5) and therefore the Appellant is entitled to be released on bail on the ground of parity. He submitted that, even otherwise the Appellant has undergone more than 12 ½ years of pre-trial incarceration and therefore also he is entitled for release on bail. As per the Appellant, as on 11th August 2025 i.e in last more than 12 ½ years, the prosecution has examined in all 27 witnesses out of approximately total 170 witnesses cited by it. Mr. Solkar therefore prayed that, the Appellant may be released on bail.

4) Mr. Chate, learned APP appearing for the Respondent-State

vehemently opposed the Appeal. He supported the impugned Order dated 1st September 2021. He drew our attention to the confessional statements of co-accused Firoz @ Hamza Abdul Hameed Sayyed (A-3), Irfan Mustafa Landge @ Zaki @ Vicky @ Fahad @ Kabeer Deshmukh @ Kamaran (A-4) and the Appellant himself, dated 9th January 2013. He submitted that, co-accused Firoz @ Hamza Abdul Hameed Sayyed (A-3) passed away on 7th April 2024 in judicial custody while undergoing treatment at JJ hospital, Mumbai. He submitted that, the role attributed to the Appellant is that, he prepared forged documents on his computer, which were subsequently used by Munib Iqbal Memon (A-5) for obtaining SIM cards for mobile phones. That, the Appellant also permitted and/or provided for use of his shop premises to the co-accused for hatching criminal conspiracy for planning the series of bomb blasts. He submitted that, taking into consideration the role attributed to the Appellant, his request for bail may not be considered and the Appeal may be dismissed.

5) Perusal of record indicates that, the allegation against the Appellant (A-6) is that, he prepared forged and/or bogus documents on his computer and provided it to the co-accused Munib Iqbal Menon (A-5) for obtaining SIM cards for mobile phones. The said mobile phones were thereafter used by other co-accused for *inter se* connection/conversation. The Appellant also provided his shop premises for allegedly hatching criminal conspiracy for planning the said bomb blasts.

5.1) At this stage, it be noted here that, co-accused Firoz @ Hamza Abdul Hameed Sayyed (A-3) has passed away on 7th April 2024, while was in judicial custody and undergoing treatment at JJ hospital at Mumbai. Therefore according to us, the confessional statement of co-accused Firoz @ Hamza Abdul Hameed Sayyed (A-3) recorded under the MCOC Act is of no avail to the prosecution at this stage. Perusal of confessional statement of the Appellant (A-6) and other co-accused recorded under Section 18 of the MCOC Act, *prima facie* indicates that, the role attributed to the Appellant is as noted in the aforestated para No.5.

5.2) Role attributed to co-accused Munib Iqbal Memon (A-5) is that, he used the allegedly forged documents prepared by the Appellant for purchasing a bogus SIM card and gave it to co-accused Imran Khan Wajid Khan Pathan (A-2), which was subsequently used by the co-accused for *inter say* conversation from respective mobile phones.

5.3) Record indicates that, the Special Public Prosecutor appearing for the Respondent has stated before the trial Court that, Section 307 read with Section 120-B of the IPC do not apply to the Appellant. Though, the prosecution has submitted a list of more than 170 witnesses, it is stated that, the prosecution may examine approximately 170 witnesses in support of its case. As of 11th August 2025, the prosecution has examined only 27 witnesses out of 170 witnesses it proposes to examine. The Appellant admittedly is in pre-trial incarceration for last more than about 12 ½ years.

5.4) A three Judge Bench of the Hon'ble Supreme Court in the case of Union of India Vs. K.A. Najeeb reported in (2021) 3 SCC 713, in para No. 17 has held as under:

“17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) of UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.”

5.5) Record further indicates that, apart from the present crime, there are no other antecedents at the discredit of the Appellant. The said fact can be discerned from the chart annexed by the Investigating Officer to his Affidavit dated 16th July 2025. It may noted here that, there is no charge under Section 302 of the IPC in the present case against any of the accused. Some of the offences with which the Appellant is charged, the minimum

sentence of five years and a maximum sentence of imprisonment for life, is prescribed therein.

The role attributed to the Appellant in present crime is similar to that of co-accused Munib Memon (A-5). According to us, the principle of parity with co-accused Munib Iqbal Memon (A-5) squarely applies to the Appellant and therefore also the Appellant is entitled to be released on bail. As noted earlier, the Appellant has already undergone pre-trial incarceration of more than 12 ½ years. As of today, the prosecution has examined only 27 witnesses out of 170 witnesses cited by it. It is thus clear that, the possibility of trial concluding in the near future appears to be remote. It is by now well settled principle of law that, the right to a speedy trial of an accused is a fundamental right under Article 21 of the Constitution of India.

5.6) In view of the above, the Appellant is entitled to be released on bail during the pendency of the said trial.

6) Hence, the following Order.

(i) The impugned Order dated 1st September 2021, passed by the learned Special Judge (MCOCA), City Civil and Sessions Court, Greater Bombay below Exhibit-282 in MCOCA Special Case No. 07 of 2013, is quashed and set-aside.

(ii) The Appellant be enlarged on bail, on his executing PR Bond in the sum of Rs.1,00,000/- with one or more solvent local sureties in the like amount, to the satisfaction of the learned Judge, NIA Court.

- (iii) After his release from jail, the Appellant shall report to the office of the ATS, Mumbai (Respondent), on the first Saturday of every month from 10:00 a.m. to 12:00 noon, till the conclusion of the trial.
- (iv) The Appellant shall not, either himself or through any other person, tamper with the prosecution evidence and give threats or inducement to any of the prosecution witnesses.
- (v) The Appellant shall not leave the jurisdiction of districts Mumbai and Pune, till the conclusion of the trial, without the prior permission of the NIA Court i.e. the trial Court.
- (vi) Appellant shall surrender his passport, if any, before the NIA Court, before his actual release from jail.
- (vii) Appellant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Agency i.e. the Respondent herein.
- (viii) Appellant to co-operate in conducting the trial of present case and attend the trial Court on all dates, unless specifically exempted.
- (ix) Appellant shall file an undertaking with regard to clauses (iii) to (viii) before the trial Court, within two weeks of his release.
- (x) If there is breach of any of the aforesaid conditions, the prosecution will be at liberty to seek cancellation of the Appellant's bail.

7. Appeal is allowed in the aforesaid terms.

8. It is made clear that, the observations made herein are *prima facie* and the learned Special Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this judgment.

9. All concerned to act on an authenticated copy of this Judgment.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)