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

BAIL APPLICATION NO.1255 OF 2024

Loknath @ Logo Armogam Shetty	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Prashant Pandey with Mr. Riddhima Mangaokar,
Mr. Dinesh Jadhvani and Ms. Sumati Gupta i/by
W3Legal LLP for the applicant.

Ms. Megha S. Bajoria, APP for the respondent-State.

Ms. Surekha B. Kapile, ACP, Marol, Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 23, 2025

P.C.:

1. This is an application filed by the applicant, accused No.5, under Section 439 of the Code of Criminal Procedure read with Section 21 of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred to as the *MCOC Act*), seeking bail in connection with Crime No.01 of 2022 registered at Kanjurmarg Police Station for the offences punishable under Sections 399, 402, 353, 307, 332 of the Indian Penal Code, read with Sections 4 and 25 of the Arms Act, Section 37(1)(A) read with Section 135 of the Maharashtra Police Act, and Sections 3(1)(ii), 3(2), and 3(4) of the MCOC Act.

2. It is the case of the prosecution that on 2nd January 2022, at about 10:00 p.m., the officials of Kanjurmarg Police Station

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received a credible tip-off from an informant that certain individuals, who were habitual offenders and whose names were recorded in the police station's history-sheets, had gathered in the vicinity of Karvenagar with a common object of committing a dacoity. The said individuals were identified as Mohan alias Mogam Shetty, Shiva Shetty, Sairam Gangipalli, Loknath alias Logo Shetty (i.e., the present applicant), Dinesh Yadav, Ratan and others.

3. Acting upon the said information, the complainant, Police Officer Shri Revle, organised a trap in the presence of two independent panch witnesses and other police staff. The informer guided the team to an open space located behind the premises of Ekta Co-operative Housing Society and Vignaharta Housing Society, where the suspects were alleged to have assembled. The police team, in coordination, took strategic positions so as to maintain uninterrupted visual contact with Shiva Shetty and approximately 5 to 6 other persons present at the spot.

4. The complainant and the panch witness stealthily moved closer to the group and allegedly overheard Shiva Shetty conveying to his associates that he had received prior information that one jeweller was scheduled to arrive at Kanjurmarg Railway Station (East) carrying a bag filled with cash. It is further alleged that Shiva Shetty instructed Mohan Shetty to throw chilli powder into the eyes of the said jeweller, so as to enable him (Shiva Shetty) to snatch the said bag and flee from the spot. He also exhorted the other associates to remain vigilant and alert during the operation.

5. Upon being satisfied that the group was in the process of preparing to commit a cognizable and grave offence punishable under law, the complainant signalled his fellow officers to take appropriate action. Acting in accordance with their plan, the police personnel surrounded the accused. At that juncture, when the complainant tried to apprehend Shiva Shetty and called upon the group to surrender, Shiva Shetty resisted the attempt and allegedly incited his associates by shouting to Ratan to kill the complainant. It is further alleged that Shiva Shetty instructed the present applicant (Loknath @ Lobo) and Sairam to draw out weapons and launch an assault on the police officers.

6. Pursuant to the said exhortation, accused Ratan is alleged to have come from behind and attacked the complainant with a sharp weapon on his back repeatedly, i.e., five to six times, thereby enabling Shiva Shetty to escape from the clutches of the complainant. Meanwhile, another associate attempted to escape, but was intercepted by other members of the police team. It is further alleged that Shiva Shetty raised an alarm by shouting “Lobo usko ghusad de,” upon which the present applicant, i.e., Loknath alias Lobo, allegedly assaulted Police Officer Chakor with a chopper. Thereafter, Sairam is said to have scuffled with the complainant and absconded from the spot. Mohan Shetty was apprehended by a separate police team.

7. It is further the case of the prosecution that due to the injuries sustained, both the complainant and Police Officer Chakor had to be immediately shifted to the hospital for medical treatment. The incident, thus, resulted in physical assault on public

servants discharging their lawful duties and attempted obstruction of lawful apprehension of accused persons.

8. I have heard the learned counsel appearing on behalf of the applicant / accused No.5 at length. He submitted that the applicant was arrested on 22.07.2022, and a supplementary charge-sheet has been filed qua the present applicant. It is her submission that there is no cogent or credible prima facie material demonstrating the complicity of the present applicant in the alleged offence, and that his continued incarceration is unwarranted. The learned counsel further submitted that the alleged recovery of a knife at the instance of the applicant has been shown after a period of more than seven months from the date of the incident, which renders such recovery highly doubtful and devoid of evidentiary value. He has also contended that the alleged knife recovered does not bear any bloodstains, which further demolishes the veracity of the prosecution's version and casts serious doubt on the genuineness of the said recovery.

9. He has also submitted that on the date of the alleged incident i.e. 01.01.2022, the applicant was at his residence celebrating the birth of his daughter, and was neither present at the scene of offence nor involved in any conspiracy or planning to commit the alleged dacoity. To substantiate the said contention, the applicant has placed on record the birth certificate of his daughter. Thus, according to the learned counsel, the materials on record do not satisfy the threshold of a prima facie case against the applicant for the purpose of invoking the rigors of Section 21(4) of the MCOC Act, and therefore, the applicant is entitled to be

enlarged on bail.

10. The learned counsel has further argued that the alleged leader of the gang, namely accused No.1, has already been enlarged on bail by a coordinate bench, and therefore, the applicant is entitled to be considered on the ground of parity, in the absence of any distinguishing circumstance. It is further pointed out that the statement of an alleged independent witness was recorded after a delay of 19 days, and the prosecution has failed to hold any test identification parade to ascertain the role of the applicant. Additionally, it is submitted that despite being arrested nearly three years ago, the applicant has been produced before the trial court only on four occasions, which clearly reflects delay in the conduct of trial.

11. In support of his case, learned Advocate for the applicant has relied on the judgements of the Supreme Court in

- a) *Ranjana Tanaji Wanve v. State of Maharashtra*, Special Leave to Appeal (Cri.) No.12740 of 2024 decided on 22 October 2024,
- b) *Siddhant @ Sidharth Balu Taktode v. The State of Maharashtra & Anr*, Criminal Appeal arising out of SLP (Cri.) No.12939 of 2024,
- c) Delhi High Court in *Jitender Dixit @ Bantu v. The State (NCT of Delhi)*, Bail Application No.3831 of 2023 decided on 19 May 2025,
- d) *Rajesh Kumar Alias Raje v. State Government of NCT of*

Delhi, Bail Application No.2986 of 2023 decided on 8 May 2025;

e) *Maruti Navnath Sonwane v. State of Maharashtra*, Bail application No.688 of 2020 decided on 24 August 2021 (Bombay High Court)

f) *Mohamad Iliyas Mohamad Bilal Kapadiya v. State of Gujarat*, Special Leave to Appeal (Cri.) No.1815 of 2022 decided on 30 May 2022;

g) *Sachin Damodar Ekhatpure v. State of Maharashtra*, Bail Application No.2830 of 2022 decided on 31 January 2023 (Bombay High Court);

h) *Tatyasaheb Laxman Karande v. State of Maharashtra*, Bail Application NO.684 of 2020 decided on 14 October 2022 (Bombay High Court);

i) *Dipak P. Mali v. State of Maharashtra*, Bail Application NO.1905 of 2023 decided on 10 April 2024 (Bombay High Court);

j) *Girish Kumaran Nayar v. State of Maharashtra*, Bail Application No.2241 of 2018 decided on 17 February 2021 (Bombay High Court);

k) *Raosaheb Patole v. State of Maharashtra*, Bail Application No.373 of 20211 decided on 24 March 2011 (Bombay Hihg Court);

l) *Anand Narhari Phadtare v. State of Maharashtra & Ors*, Bail Application NO.409 of 2022 decided on 30 October

2023 (Bombay High Court);

m) *Dipak Bhimrao Patil v. State of Maharashtra*, Bail Application NO.1188 of 2023 decided on 15 September 2023 (Bombay High Court);

n) *Mumtaz v. State (NCT of Delhi) & Ors.*, decided on 28 December 2022 (Delhi High Court)

o) *Prabhakar Tewari v. State of Uttar Pradesh & Anr.*, Criminal Appeal No.152 of 2020 decide on 24 January 2020 (Supreme Court); and

p) *Pavan s/o. Nandkishor Sedani v. State of Maharashtra*, Bail Application No.778 of 2021 decided on 21 September 2021 (Bombay High Court)

12. Hence, it is submitted that on the ground of prolonged incarceration and delay in trial as well, the applicant deserves to be released on bail.

13. Per contra, the learned Special Public Prosecutor appearing on behalf of the State has opposed the present application by submitting that there is sufficient and credible prima facie material indicating active involvement of the present applicant / accused No.5 in the commission of the offence in question. It is submitted that the name of the applicant has been specifically mentioned in the First Information Report itself, wherein it is categorically alleged that he, along with other co-accused, was part of an unlawful assembly that had gathered with the intention of committing dacoity and, when intercepted by the police, resorted

to a violent attack on the public servants in discharge of their official duty. It is further submitted that the applicant assaulted Police Officer Sanjay Chakor with a sharp-edged weapon, resulting in bodily injuries. The said weapon, a chopper, was recovered at the instance of the applicant pursuant to a voluntary memorandum statement recorded under Section 27 of the Indian Evidence Act. The said memorandum statement forms part of the supplementary charge-sheet and is duly supported by the recovery panchanama placed.

14. The learned APP submitted that the version contained in the FIR is not in isolation but finds substantive corroboration from the statements of multiple eyewitnesses, who were part of the police team present at the spot. These statements are annexed with the supplementary charge-sheet and corroborate the overt acts attributed to the applicant. In addition, the prosecution relies upon statements of two independent witnesses, which lend further support to the narrative as set out in the FIR and the statements of the official witnesses.

15. The learned APP has also drawn the attention of the Court to the criminal antecedents of the applicant. It is submitted that the applicant has a long criminal history and, as per the crime chart, a total of 19 cases involving offences against property and human body are pending against him at various police stations. These cases pertain to serious offences involving violence and unlawful activities. In view of the above, it is contended that the applicant is an habitual offender and has committed the present offence as a member of an organised crime syndicate, in concert with other

members of the gang.

16. The learned APP submits that the material on record establishes the nexus of the applicant with an organised crime syndicate and his participation in the continuing unlawful activity, thereby satisfying the foundational requirement under Section 2(1)(d) read with Section 2(1)(e) and Section 2(1)(f) of the Maharashtra Control of Organised Crime Act, 1999.

17. It is further submitted that the twin conditions prescribed under Section 21(4)(b) of the MCOC Act have not been fulfilled by the applicant. The applicant has failed to demonstrate, either on the basis of the record or by way of cogent argument, that there is no prima facie case or that he is not likely to commit any offence while on bail.

18. The learned SPP has further submitted that the Call Detail Records (CDR) of the applicant's mobile phone indicate his presence in the vicinity of the spot of incident at the relevant time, thereby corroborating the version of the prosecution and nullifying the alibi sought to be projected by the applicant.

19. It is also submitted that the applicant has allegedly committed at least five offences in association with the gang leader who stands arraigned as accused No.1 in the present case. This, according to the prosecution, strengthens the allegation of continuity and organised criminal activity as envisaged under the MCOC Act.

20. Therefore, the learned APP contended that considering the nature and gravity of the offence, the role attributed to the

applicant, the corroborative material placed on record, and the antecedents of the applicant, this Court may not exercise its discretion to grant bail in favour of the present applicant.

21. I have considered the rival submissions advanced by the learned counsel for the applicant and the learned Special Public Prosecutor. I have also perused the material available on record, including the charge-sheet, supplementary charge-sheet, statements of eyewitnesses and independent witnesses, recovery panchanama, and chart of criminal antecedents annexed by the prosecution.

22. At the outset, it is pertinent to note that the applicant is arraigned as accused No.5 and is specifically named in the FIR. The FIR attributes to him the role of causing grievous injury to one of the police officers, namely Police Officer Sanjay Chakor, by use of a chopper. The said incident is stated to have occurred when the police officers, while acting upon credible information, intercepted a group of persons who had gathered for the purpose of committing dacoity. The applicant was part of this group and, as per the FIR and witness statements, actively participated in resisting police action and facilitating the escape of other co-accused.

23. The recovery of the chopper weapon at the instance of the applicant, pursuant to his memorandum statement, is duly supported by the panchanama, which is contemporaneous and forms part of the supplementary charge-sheet. While the defence has raised doubts as to the delay in such recovery, at this stage of

bail consideration, such arguments cannot be weighed in isolation, particularly in light of corroborative material in the form of eyewitness accounts and CDR analysis showing presence of the applicant near the place of occurrence.

24. The prosecution has placed on record statements of several eyewitnesses, including police personnel and independent witnesses, which, at this prima facie stage, appear consistent and corroborative of the events narrated in the FIR. The injured eyewitness has attributed a specific overt act to the present applicant of attacking him with a chopper.

25. It is also a matter of record that the applicant has multiple criminal antecedents. The chart placed on record by the prosecution reveals that there are in all 19 offences registered against him across various police stations, involving serious offences against person and property. The applicant has also allegedly committed offences along with the gang leader in at least five previous instances. These facts prima facie satisfy the requirements of "continuing unlawful activity" and "organised crime" under Section 2(1)(d), (e), and (f) of the MCOC Act.

26. The submission on behalf of the applicant that the gang leader has been granted bail by a coordinate Bench, and that therefore the applicant is entitled to bail on the ground of parity, cannot be accepted without examining the nature of the role attributed to each accused. In the present case, a specific and violent overt act has been attributed to the applicant of assaulting a public servant with a dangerous weapon, causing injury. The

principle of parity cannot be applied mechanically in cases under the MCOC Act, especially when the accused stand on a different factual footing in terms of their roles and criminal antecedents.

27. With regard to the contention that the applicant has been in custody for approximately three years and has been produced before the trial Court only on four occasions, it is no doubt true that speedy trial is a constitutional mandate. However, merely on the ground of 3 years' incarceration, bail cannot be granted in cases involving organised crime unless the rigours of Section 21(4) of the MCOC Act are satisfied.

28. Section 21(4) of the MCOC Act lays down that no person accused of an offence under the said Act shall be released on bail unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. The burden to demonstrate both conditions lies squarely on the applicant. At this stage, on a cumulative assessment of the material placed before the Court, I am not satisfied that the applicant has discharged the said burden.

29. The Supreme Court in *Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra*, (2005) 5 SCC 294, has held that bail under the MCOC Act may be granted only when both conditions under Section 21(4)(b) are cumulatively satisfied. In the present case, considering the prima facie evidence of the applicant's active participation in the attack on public servants, recovery of weapon, corroboration from independent witnesses, and his antecedents of

organised crime, I am of the view that the applicant has not satisfied either of the twin conditions laid down in the said provision.

30. Insofar as the judgments relied upon by the learned Advocate for the applicant are concerned, it must be noted that the said decisions do not lay down any legal proposition of law applicable to the facts of the present case.

31. In the present matter, what stands out is not only the gravity of the alleged offence but the identity of the victim — a public servant in the uniformed force — and the circumstances under which the assault is alleged to have taken place. The applicant is alleged to have attacked police personnel while they were discharging their lawful public duty. Such acts strike at the very root of public order and undermine the authority of the law enforcement machinery. This Court cannot lose sight of the fact that the role of the police is not merely investigative but also preventive, and any assault on police while on duty is an assault on the rule of law itself.

32. Further, it has come on record that the applicant has nineteen prior criminal antecedents, which cannot be brushed aside lightly. The involvement of the applicant in multiple prior offences demonstrates a pattern of disregard for the law and a propensity towards criminal conduct. While the principle of presumption of innocence remains sacrosanct, the grant of bail in cases involving repeat offenders, particularly where public servants are targeted during duty, must be viewed with circumspection.

33. This Court is of the considered opinion that releasing such an accused on bail at this stage would send a wrong signal to the society and may demoralize the law enforcement agencies. The role attributed to the applicant, coupled with his antecedents and the nature of the victim, cumulatively disentitle him to the discretionary relief of bail.

: O R D E R :

(i) The Bail Application preferred by the applicant / accused No.5 in connection with MCOC Special Case No.393 of 2022, arising out of C.R. No.01 of 2022 registered with Kanjurmarg Police Station, is hereby rejected.

34. The bail application is disposed of in the aforesaid terms.

(AMIT BORKAR, J.)