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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 517 OF 2023

Prashant Purushottam Joshi .....Applicant

Vs.

The State of Maharashtra .....Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 1140 OF 2023

Ravindra s/o Laxman Barhate .....Applicant

Vs.

The State of Maharashtra .....Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 1473 OF 2024

Devendra Fulchand Jain .....Applicant

Vs.

The State of Maharashtra .....Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 2388 OF 2023

Jayesh Jitendra Jagtap .....Applicant

Vs.

The State of Maharashtra .....Respondent

WITH
CRIMINAL BAIL APPLICATION NO. 2669 OF 2023

Prakash Raghunath Phale .....Applicant

Vs.

The State of Maharashtra .....Respondent

Mr. Chetan Nagare a/w Mr. Viraj Rakh (Through VC) for the applicant in BA 517/2023
Mr. Chaitanya Nikte a/w Mr. Nilesh Tribhuvann, Mr. Burzin Bharucha, Ms. Jhanavi Shsh, Ms. Bhumika Sanghvi Jain i/b White and Brief Advocate and Solicitors for the applicant in BA 1140/2023
Mrs. Aruna Pai for the applicant in BA 1473/2024
Mr. Satyavrat Joshi (through VC) a/w Mr. Samay Pawar, Ms. Shivani Kondekar, Mr. Yash Fadtare, Mr. Ishan Paradkar, Mr. Priyesh More and Ms. Rahi Patil for the applicant in BA 2388/2023
Mr. Ashraf Ali Shaikh a/w Mr. Ibrahim Shaikh (Through VC) for applicant in BA 2669/2023
Mr. Sudeep Pasbola-Senior Advocate a/w Mr. Ramprasad Deore, Ms. Harshada Shirsath i/b Mr. Ayush Pasbola for intervenor
Mr. Pradipsing M. Rajput, Special Public Prosecutor a/w Mr. Ashok S. Gawai APP for the State-Respondent

CORAM : GAURI GODSE, J.

DATE : 23rd JULY 2025

ORDER:

1. These bail applications are filed by accused no. 1-Prakash

Phale, accused no. 2-Prashant Joshi, accused no. 5-Ravindra Barhate, accused no. 9-Jayesh Jagtap and accused no. 10-Devendra Jain for enlarging them on bail in connection with CR No. 79 of 2021 registered with Chatursbrungi Police Station for the offences punishable under sections 406, 420, 506(2), 386, 387, 388, 389, 120(B), 109 read with 34 of the Indian Penal Code ('IPC') and under Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime Act, 1999 ('MCOC Act').

2. Accused no. 1-Prakash Phale was arrested on 26th March 2021, accused no. 5-Ravindra Barhate was arrested on 5th January 2022, accused no. 2-Prashant Joshi was arrested on 27th June 2021, accused no. 9-Jayesh Jagtap was arrested on 29th May 2022 and accused no. 10-Devendra Jain was arrested on 7th February 2022. The chargesheet was filed on 20th September 2021, and the supplementary chargesheet was filed on 15th February 2022. However, the charge is not yet framed. It is the prosecution's case that 17 witnesses are to be examined.

3. The FIR was registered on 9th February 2021, and a total of 14 accused were named in the FIR. Out of them, one has expired.

The prosecution has filed a report under Section 169 of the Code of Criminal Procedure, 1973 (Cr.P.C.), regarding the five accused. Out of the 10 chargesheeted accused, one, Vinay Mundada, is absconding. These applications are filed by the five accused. Their applications for bail filed before the Special Court were rejected. In these circumstances, no charge has been framed, and the trial has not proceeded.

4. A grievance is made on behalf of accused no. 10-Devendra Jain and accused no. 5-Ravindra Barhate, that they were never produced before the Court. A grievance is made on behalf of accused no. 9-Jayesh Jagtap and accused no. 2-Prashant Joshi and accused no. 1-Prakash Phale, that they were produced before the Court only on a few occasions.

5. The case of the prosecution, in brief, is that there was a dispute with regard to the landed property owned by the complainant. The complainant claimed ownership of the land through her father. She wanted to enter her name in the revenue record. Accused no. 9-Jayesh Jagtap, accused no. 2-Prashant Joshi, and the other two accused, Parvez Jamadar and Shailesh

Jagtap, visited the complainant sometime in 2016, giving her an offer regarding entering her name in the revenue record and sale of the landed property. They introduced Rishikesh Bartakke to the complainant. On 2nd October 2017, the complainant executed a memorandum of understanding with Rishikesh Bartakke and Visar Pavati on 23rd August 2017 for the sale of land for Rs. 3 Crores.

6. It is alleged that on 28th October 2017, one memorandum of understanding was executed between Rishikesh Bartakke and Sanjay Bhokare for an amount of Rs 5 Crores. It is further alleged that an amount of Rs. 50 Lakhs was paid by Rishikesh Bartakke to Sanjay Bhokare for the purpose of the land transaction, including the amount required for getting the name of the complainant entered into the revenue record. Sanjay Bhokare was initially named as an accused in the FIR; however, a report was subsequently filed under Section 169 of Cr.P.C., and thus, Sanjay Bhokare is not chargesheeted.

7. The prosecution's case further refers to the dispute between the complainant and the Bafna family. The allegation is that these accused assisted the Bafna family in an attempt to forcibly

dispossess the complainant of her landed property. The members of the Bafna family were also named in the FIR; however, subsequently, Bafna family members were dropped, and a report under section 169 of Cr.P.C. was filed. The prosecution case further alleges that a threat was given to the complainant by the four accused who visited her for the purpose of getting her name entered in the revenue record, by stating that the only person who could assist the complainant was accused no. 5-Ravindra Barhate, who is an influential person in the department of revenue. Thus, it is further alleged that accused no. 5-Ravindra Barhate is a gang leader on whose instance, the four accused had threatened the complainant for the purpose of selling her land and had extorted money for getting her name entered into the revenue record.

8. It is further the case of the prosecution that the threats were given to the complainant through Nitin Shah, who had met these accused in front of a police station. It is thus alleged that the complainant was threatened by the four accused on behalf of accused no. 5-Ravindra Barhate, who is involved in land grabbing

cases. Out of all the accused who threatened the complainant, two of them, Shailesh Jagtap and Parvez Jamadar, are police constables. Another accused no. 10, Devendra Jain is a journalist, and the allegation against him is that he published defamatory articles against the complainant and her father with the intention of threatening her into entering into a transaction regarding her land.

9. For these transactions, it is further alleged that accused no. 2-Prashant Joshi, who is a real estate agent, had taken away all the original documents from the house of the complainant, and she was threatened to pay money for getting back her original documents. So far as accused no. 1-Prakash Phale is concerned, it is alleged that he was posed as an advocate, and the complainant was threatened to seek assistance from all these accused for getting her name entered into the revenue record and entering into the sale transaction in respect of her landed property.

10. **BAIL APPLICATION NO. 1140 OF 2023**: This application is filed by accused no. 5-Ravindra Barhate, who is alleged to be the gang leader. It is alleged that there are various complaints filed

against this accused, and out of those complaints, in three of the cases, a charge sheet is filed and the cognizance is taken prior to registration of the present FIR. Hence, with these allegations, provisions of the MCOC Act are invoked against all the accused.

11. Learned counsel for the applicant submitted that though there are cases registered against this applicant, there are no two prior chargesheets filed and cognizance taken, preceding 10 years from the commission of the present offence. He submitted that the period of the present offence is from 2nd September 2016 to 6th May 2020. The FIR in which the chargesheet is filed and the cognizance is taken is post 6th May 2020, and thus, there were no more than two chargesheets filed and cognizance taken prior to the date of the present offence. Learned counsel for the applicant further submitted that the entire FIR and the chargesheet merely alleged that accused, Prashant Joshi, Shailesh Jagtap, and Parvez Jamadar had visited the complainant to assist her with updating the revenue record. In none of the statements is it alleged that this applicant ever met the complainant or her daughter and threatened them. There are no allegations regarding

any meetings, calls, or communications with the complainant or Rishikesh Bartakke, in whose favour the complainant executed the agreement and the power of attorney. He submits that there are no CDR reports to connect the present applicant with any of the allegations made by the complainant. It is submitted that even the complainant's statement does not refer to her ever meeting this applicant or that he had threatened her.

12. Learned counsel for the applicant pointed out the relevant pages of the chargesheet to point out that the real owner of the disputed property is the Bafna family. He pointed out the relevant pages of the chargesheet to show that the Nandekar Family was the original owner of a larger land, who had transferred the land to the complainant’s father, Dr. Bhagwandas Shotriya. He pointed out the relevant record to show that Dr. Bhagwandas Shotri, i.e. complainant’s father, executed three separate sale deeds in favour of one Korde, Deshpande, and Bafna Family. All the registered sale deeds are part of the chargesheet. Learned counsel for the applicant further pointed out that the dispute with regard to this landed property was with the Bafna family, who also

claimed to be in possession of the property.

13. As far as the applicant is concerned, he is an RTI activist and was actively involved in pursuing enquiries into the fraudulent disposals of lands declared as surplus under the ULC Act. Learned counsel for the applicant pointed out that out of the land belonging to the complainant‘s father, some of the area was declared surplus. He, thus, submits that the applicant, who is an RTI activist, had initiated certain complaints about the surplus land; hence, the applicant is falsely implicated in the present case. He submitted that there is no acquaintance, connection, or communication of any kind between this applicant and the complainant or her power of attorney holder, Rishikesh Bartakke.

14. Learned counsel for the applicant pointed out certain parts of the chargesheet to show that the applicant had filed a complaint on 13th October 2018 against the present complainant for filing a bogus affidavit at Hadapsar Police Station. He submits that this applicant had filed a complaint against the present complainant, alleging that the revenue department and the police authorities were making allegations about a false affidavit filed by the

complainant. Learned counsel for the applicant also pointed out the complaint filed by this applicant against one Nitin Shah, whose statement is relied upon by the prosecution in the chargesheet. Learned counsel for the applicant further pointed out various other complaints filed by this applicant against the present complainant for making false and defamatory allegations against this applicant. He referred to the relevant page numbers of the chargesheet regarding the complaints filed by him on 10th January 2019, 7th March 2019, 11th June 2019, 14th October 2019, 25th November 2019, and 2nd January 2020. All these complaints are filed against the complainant and her power of attorney holder, Rishikesh Bartakke.

15. Learned counsel for the applicant also pointed out the relevant pages from the chargesheet to show that the applicant's role was to highlight the illegalities committed with regard to the land declared surplus under the ULC scheme, and the complaints filed against the present complainant was a reason to falsely implicate the present applicant by falsely invoking the provisions of MCOC Act. He submits that this FIR is part of a larger vendetta,

as nine different FIRs were registered within a span of three months of the present FIR, and subsequently, 11 FIRs were registered against this applicant within a period of one year. He pointed out that the applicant has been granted bail in all the cases and in most of the cases, either no chargesheet is filed or ‘B’ summary report is submitted. He also pointed out that in some of the cases, the applicant is acquitted or the matters are disposed of. The copies of these particulars are produced by the applicant in the present bail application to support his submissions that he has been falsely implicated.

16. Learned counsel for the applicant further pointed out that the father of accused no. 9-Jayesh Jagtap, had committed suicide, and a case is registered, and the present applicant is a prime witness along with accused no. 9-Jayesh Jagtap. Hence, to pressurize the applicant, false allegations are made against this applicant, and he has been implicated in this case.

17. Learned counsel for the applicant further submitted that the allegations against this applicant that he is a gang leader are based on the allegation that an amount of Rs. 50 Lakhs was

collected by Sanjay Bhokare at the instance of this applicant. However, there is no allegation of any money transaction with this applicant, and more particularly, there is a report under section 169 of Cr. P.C. filed regarding Sanjay Bhokare, and he is not chargesheeted. Learned counsel for the applicant further points out that, except for FIR of 2016, there is no prior complaint against the applicant, and all the cases are registered by way of a series of complaints after the present FIR of 2021. Learned counsel for the applicant points out that this applicant was never named in the initial statements, and the only allegations are regarding other accused stating that they had visited the complainant in the year 2016 and threatened her in the name of the present applicant for the purpose of getting her name entered into the revenue record. Learned counsel for the applicant, thus, points out that only by way of vengeance, this applicant is falsely implicated in the present case.

18. Learned counsel for the applicant also pointed out the complaints made by him against the complainant's power of attorney holder, Rishikesh Bartakke, and one of the witnesses,

Nitin Shah, which the prosecution relied upon. He points out that this applicant has also filed a complaint before the Joint Charity Commissioner on 14th October 2019, showing that Rishikesh Bartakke and Nitin Shah are involved in a land scam. Learned counsel for the applicant, therefore, submits that there is no material against this applicant and, therefore, he needs to be released.

19. **BAIL APPLICATION NO. 517 OF 2023**: This application is by accused no. 2-Prashant Joshi. Learned counsel for the applicant submits that the role attributed against the present applicant is limited to the extent that, as a real estate agent, he had introduced the complainant to other co-accused and facilitated the sale transaction of the disputed property. The other allegation against this applicant is regarding forcibly taking away the original papers of the property from the complainant's custody, and that this applicant was present along with other co-accused who extorted Rs. 20 Lakhs from the purchaser, i.e. Rishikesh Bartakke. Learned counsel for the applicant submits that there are no antecedents against this applicant except the present

complaint. He submits that there is no material to show any nexus or any commonality between the present applicant and other co-accused with reference to the offences alleged against other co-accused for invoking provisions of the MCOC Act. He submits that the applicant is falsely implicated solely on the allegation that he introduced other co-accused to the complainant for the purpose of the land transaction.

20. Learned counsel for the applicant submits that he has never been a member of any crime syndicate and there are no incidents or any complaints filed against this applicant. He submits that the applicant is not a beneficiary of any of the transactions, and he is thus falsely implicated in the case. Learned counsel for the applicant points out that from the statement of the complainant, it is stated that the original documents of the property were recovered by the police authority from one Gosavi, in furtherance of which a complaint was filed on 31st July 2018 at Chatursrungi Police Station. Learned counsel for the applicant, therefore, submits that there are no allegations and there is no role attributed against this applicant for invoking any provisions of the

MCOC Act or IPC sections as alleged in the complaint. He, therefore, submits that the applicant deserves to be released on bail.

21. **BAIL APPLICATION NO. 2388 OF 2023**: This applicant is accused no. 9 (Jayesh Jagtap) in the chargesheet. Learned counsel for the applicant submits that the complainant initially filed a complaint on 31st July 2018, making allegations only against Accused No. 2, Prashant Joshi. He submits that, based on similar allegations made in the initial complaint in 2018, the police registered an FIR only on 9th February 2021. He submits that when similar allegations were made by the complainant in the year 2018, no cognizance was taken by the police; however, it was only in February 2021, based on the same allegations, that an FIR is registered by the police. Learned counsel for the applicant points out that in the absence of filing of a chargesheet or cognizance taken prior to the date of present offence, the provisions of MCOC Act appear to be doubtful.

22. Learned counsel for the applicant relies upon the decision of the Hon’ble Apex Court in the case of ***Mahipal Singh Vs. CBI and***

***ors*[1]**. Learned counsel for the applicant, thus, submits that since in none of the cases, more than one chargesheet was filed and cognizance was taken prior to the date of the offence in the present case, the provisions of MCOC Act cannot be invoked. Learned counsel for the applicant points out the relevant pages from the chargesheet to submit that one of the witnesses, Sudhir Karnataki, in the present case, is an accused in a complaint where the present applicant is the first informant. Learned counsel for the applicant submits that the applicant's father had committed suicide, and there is a case registered in which Sudhir Karnataki, who is a witness in the present case, is an accused. Learned counsel for the applicant points out the statement of Sudhir Karnataki in the present case and the statement of the complainant's daughter. Learned counsel for the applicant points out that the applicant is falsely implicated with the intention of pressuring him, as another complaint has been filed at the behest of this applicant.

23. Learned counsel for the applicant submits that the period of offence in the present case is from 2016 to 6th May 2020. He

1 **2014 (11) SCC 282**

submits that the FIR was belatedly filed only in February 2021. He submits that, although the initial complaints pertaining to the same allegations were filed by this complainant in 2018, the present FIR is registered based on the same complaints only to circumvent the provisions of Section 155(2) and (3) of the Cr. P.C. He submits that after registering the series of complaints subsequently, and by filing a chargesheet in some of them, the prosecution has sought to invoke provisions of the MCOC Act in the present case. Learned counsel for the applicant, thus, submits that the application of the provisions of the MCOC Act in this case is doubtful.

24. Learned counsel for the applicant submits that so far as the allegations of Indian Penal Code are concerned, there is no material against the present applicant. He further submits that the charge is not yet framed. Learned counsel for the applicant submits that in all the cases registered against him, he has been granted bail. He, therefore, submits that no purpose would be served in detaining the applicant further in the present case.

25. **BAIL APPLICATION NO. 2669 OF 2023**: This applicant is

accused no. 1-Prakash Phale and the allegations against him are that he was introduced as an advocate by accused no. 2-Prashant Joshi. Learned counsel for the applicant submits that this applicant is in the real estate business and he has never presented himself as an advocate. He submits that false allegations are made against this applicant, and that he was introduced as an advocate to the complainant. Learned counsel for the applicant further submits that all the cases against this applicant are registered post the present offence. He submits that the applicant is granted bail in all cases. Learned counsel for the applicant points out that the bank account details of the applicant in the chargesheet do not relate to any of the transactions alleged in the present case.

26. Learned counsel for the applicant submits that there is no role attributed to this applicant, and he has been unnecessarily detained without any material against him. Learned counsel for the applicant submits that the applicant was arrested on 26th March 2021. No charge has been framed, and except for a few dates, the applicant was never produced before the Court. He

submits that there is no possibility of the trial commencing in the near future, and no purpose would be served by detaining the applicant further as there are no allegations against the applicant.

27. **BAIL APPLICATION NO. 1473 OF 2024**: This applicant is accused no. 10-Devendra Jain, who was arrested on 7th February 2022. Learned counsel for the applicant submits that the only role alleged against this present applicant is that he had published defamatory articles in the newspaper against the complainant and her father with the intention to defame the Complainant and her father. Learned counsel for the applicant submits that in the entire chargesheet, the present accused is nowhere seen associated with other co-accused at the time of the alleged negotiations, execution of the alleged agreement or any transaction between the complainant and her power of attorney holder, Rishikesh Bartakke.

28. Learned counsel for the applicant submits that there is no allegation against the applicant with regard to the execution of the agreement between Rishikesh Bartakke and Sanjay Bhokare where it was allegedly agreed that Rs. 5 Crores would be given to

Sanjay Bhokare for entering the name of the complainant in the revenue record. Learned counsel for the applicant submits that the amount is allegedly paid to Sanjay Bhokare, whose name was subsequently dropped, and a report under section 169 of Cr.P.C. is filed. She submits that the present applicant is neither alleged to be any beneficiary nor alleged to have been present at the time of any of the transactions. She submits that Rishikesh Bartakke is the power of attorney of the complainant, and he is said to have paid Rs. 50 Lakhs by RTGS to Sanjay Bhokare. However, there is no reference or any allegation against this applicant with regard to any monetary transaction, and there is no evidence that this applicant is part of the alleged syndicate.

29. Learned counsel for the applicant, therefore, submits that in the absence of any material against this applicant, he has been falsely implicated only on the ground that he has published defamatory articles. Learned counsel for the applicant, therefore, submits that there is no purpose in detaining the present applicant any further.

30. **Submissions on Behalf of The Special Public Prosecutor**:

Learned Special PP submits that out of 10 chargesheeted accused, one accused, Vinay Mundada, is still absconding. Learned Special PP further submits that on 4th March 2021, prior approval for invoking provisions of MCOC Act was issued, and the final approval was granted on 20th September 2021 on the ground that in three offences, chargesheet was filed and cognizance was taken. Learned Special PP relies upon the reference in the order granting final approval that the chargesheet filed and cognizance taken in three of the offences. He further submits that various series of offences filed against these applicants would show that all are habitual offenders.

31. Learned Special PP points out the relevant statements from the chargesheet to point out that accused no. 2-Prashant Joshi introduced the other accused to the complainant, and she was told that accused no. 5-Ravindra Barhate would do the necessary work to get her name entered into the revenue record. He submits that accused no. 1-Prakash Phale was falsely introduced as an advocate, and the complainant was told that Jayesh Jagtap would purchase the complainant's property. However, the complainant

refused to enter into any such transaction. Thereafter, these accused introduced Rishikesh Bartakke to the complainant. Learned Special PP points out the relevant portion from the statement to support the allegations made against these applicants with regard to the agreement executed in respect of the complainant's property. He submits that after an agreement was executed, Rishikesh Bartakke paid Rs. 5 Lakhs each to the complainant and her daughter; thus, the complainant received only Rs. 10 Lakhs under the agreement with Rishikesh Bartakke. The agreement was executed for an amount of Rs. 5 Crores. He further points out that accused-Shailesh Jagtap, accused no. 9-Jayesh Jagtap, accused-Parvez Jamadar, accused no. 2-Prashant Joshi took Rs. 20 Lakhs from Rishikesh Bartakke. He further submits that the amount of Rs. 50 Lakhs is taken through Sanjay Bhokare from Rishikesh Bartakke, and Rs. 10 Lakhs were taken in cash by all four accused. He submits that the total of Rs. 80 Lakhs was paid by Rishikesh Bartakke with regard to the transaction entered into with the complainant. To support all these allegations, learned Special PP relied upon various statements which are part of the charge sheet.

32. Learned Special PP further points out that accused no. 2-Prashant Joshi forcibly took away the original papers, and for returning the original documents, he demanded Rs. 3 Lakhs. He submits that this demand was made to Nitin Shah, whose statement was recorded by the prosecution. He submits that in the statement, Nitin Shah has stated that Rishikesh Bartakke and Shailesh Jagtap threatened Nitin Shah that an amount of Rs. 3 Crores would have to be paid for getting back the original papers.

33. Learned Special PP further submits that the complainant in her statement has alleged that a demand of Rs. 3 Crore was made to Nitin Shah, and this was informed to her through Rishikesh Bartakke. He submits that the allegations against the Bafna family regarding obstructing her possession are supported by the complainant in her own statement, as well as the statement of watchman Karunachand Shukla, Rishikesh Bartakke, and the complainant’s daughter. He points out that the incident about the attempt to forcibly dispossess the complainant by the Bafna family is thus supported by the statements made by the complainant, her daughter and Nitin Shah. He submits that in the supplementary

statement of the complainant, she has also stated that at the time of taking measurements of her landed property, various objections were raised and obstructions were created by accused no. 5-Ravindra Barhate, accused no. 2-Prashant Joshi and accused no. 9-Jayesh Jagtap. He submits that Rishikesh Bartakke also states these allegations in his statement.

34. Learned Special PP further points out that accused no. 10-Devendra Jain, who is a reporter, had threatened the complainant to defame her and her father. He submits that defamatory articles were published by the accused, Devendra Jain, only with the intention to threaten the complainant and her daughter. He submits that the complainant and her daughter specifically state these allegations in their respective statements.

35. Learned Special PP further submits that in the FIR, one Vishal Totre was named as an accused. He submits that Vishal Totre visited the complainant and threatened her into entering into a settlement with all the accused. He submits that in the supplementary statement of the complainant and the statement of her daughter, this threat given through Vishal is specifically stated.

He submits that before Vishal's statement could be recorded, he expired. However, he submits that the threats given through Vishal are supported by the statements of the complainant and her daughter.

36. Learned Special PP relies upon the affidavit filed on behalf of the investigating officer. He submits that there are at least three cases filed against accused no. 5-Ravindra Barhate, in which chargesheet is filed and cognizance is taken prior to the present offence. He submits that, although the FIR states the period of the offence as from 2016 to 6th May 2020, and the FIR was registered in February 2021, the complainant in her statement explains the delay in lodging the FIR. He submits that she has stated that in view of her ill health and the Covid pandemic, there was a delay in filing the FIR.

37. Learned Special PP submits that the charge is not framed only because hurdles have been created by the applicants by filing multiple applications. He submits that on 18th July 2023, an application was filed by accused no. 5-Ravindra Barhate for taking action against the complainant for making false allegations. He

submits that a similar application was filed on 18th November 2024. He submits that accused no. 5-Ravindra Barhate filed an application through jail stating that he would accept all the allegations and further stated that the Investigating Officer should prove all the charges. He submits that the delay in framing the charge is solely due to the fact that multiple applications have been filed, creating hurdles in the process of framing the charge. He therefore submits that sufficient material is there against these applicants, and since serious charges are levelled against these applicants, they should not be released on bail.

38. **Submissions on behalf of the complainant:** Intervention is made on behalf of the complainant by tendering written submissions. Learned senior counsel for the intervener relied upon a list of cases filed against accused no. 5-Ravindra Barhate, accused no. 2-Prashant Joshi, accused no. 9-Jayesh Jagtap, Shailesh Jagtap, accused no. 10-Devendra Jain and accused no. 1-Prakash Phale. He pointed out that in three of the cases, chargesheet is filed on 4th August 2020, 6th August 2020, and 17th August 2020, and cognizance is also taken on the same day. He

submits that in the present case, FIR is registered on 9th February 2021, making allegations ranging from 2016 till the date of filing of FIR. He, therefore, submitted that on the date of filing the present FIR, in three cases, a chargesheet was filed and cognizance was taken. He, therefore, submitted that there is sufficient compliance as per the definitions in clauses (d) and (e) of Section 2 of the MCOC Act. Learned senior counsel for the intervener therefore submitted that provisions of the MCOC Act are rightly invoked in the present case. He further relied upon the statements of the complainant and her daughter to support the allegations and the role of the accused persons as stated in the complaint.

39. Learned senior counsel submits that considering the detailed statements pointing out the various allegations and the threats given by the accused, there is sufficient material on record against all the accused persons. He submits that in view of the threats given to the complainant and her daughter by the gang leader, accused no. 5-Ravindra Barhate, it is clear that the statements support all the allegations made regarding threats and extortion by these accused on behalf of the main gang leader

accused no. 5-Ravindra Barhate. He, therefore, submits that no case is made out to release these applicants on bail.

40. With the assistance of the respective counsel appearing in the matter, I have carefully reviewed all the statements and other materials relied upon by the prosecution against these applicants. Upon reviewing the statements, it is clear that the allegations primarily concern the landed property of the complainant, which she claimed to own through her father. It is important to note the particulars of the dispute as pointed out by the learned counsel appearing for accused no. 5-Ravindra Barhate, who is alleged to be a gang leader. Based on the material on record, learned counsel pointed out the relevant transactions entered into by the complainant's father. A perusal of the relevant material in the chargesheet regarding the dispute with the landed property indicates that there was a registered sale deed, which is part of the record, executed by the complainant's father in favour of the Bafna family. Further material on record shows that under the Urban Land (Ceiling and Regulation) Act 1976 ('ULC Act'), there was surplus land declared out of the property sold to the Bafna

family. Thus, it appears that the real dispute is of a civil nature regarding the transactions of the land.

41. Accused no. 5-Ravindra Barhate claimed to be an RTI activist who had made various complaints regarding the surplus land. From the record, it is seen that there were complaints initiated and filed by accused no. 5-Ravindra Barhate against the complainant as well as Rishikesh Bartakke pertaining to the same landed property. Though the complainant makes allegations of threat against four accused, i.e. accused no. 9-Jayesh Jagtap, accused no. 2-Prashant Joshi, accused no. 1-Prakash Phale and Shailesh Jagtap; she also states that Rishikesh Bartakke was introduced to her by these accused, and she has executed agreements and also a power of attorney in favour of Rishikesh Bartakke. However, there are no allegations that she was threatened or forced to execute any agreement with Rishikesh Bartakke.

42. Learned Special PP points out statements of the complainant, her daughter and Nitin Shah. Learned Special PP mainly relies upon the statement of Nitin Shah to point out that

threats were given by the four accused, i.e. Prashant Joshi, Prakash Phale, Shailesh Jagtap, and Vinay Mundada, who are also chargesheeted, but Vinay Mundada is absconding. Learned Special PP also pointed out that in one of the incidents, even accused no. 10-Devendra Jain was present along with these accused, where a demand was made of Rs. 3 Crores. However, the complainant or her daughter has not made any direct allegations against accused no. 5-Ravindra Barhate that he had given any threat or there was any coercion to enter into any transaction in respect of her landed property by him. Nitin Shah has made vague statements, and there are no specifics regarding the period during which the alleged threats were made by these accused. The only material against Devendra Jain appears to be that he has published defamatory articles.

43. It is also necessary to refer to the record that shows various complaints made by accused no. 5-Ravindra Barhate, who is alleged to be the gang leader. The allegation relied upon by the learned Special PP either appears to be against Shailesh Jagtap or allegations made by Nitin Shah stating that these accused threatened the complainant. However, Nitin Shah has not filed any

complaint. The allegations made by the complainant against these accused about the threats are based on information allegedly received by the complainant from Rishikesh Bartakke, who acts as the power of attorney holder of the complainant.

44. The statement relied upon by the learned Special PP alleges that these accused conspired to take possession of the complainant’s land. However, there is no substantial material on record to indicate that all these accused were present on the date of the incident. Though there is a reference in the statement of the complainant and her daughter regarding the incident of the attempt to forcibly dispossess the complainant, there are no specific allegations that these accused were present at the time of the incident. A perusal of the statement shows that the allegations regarding dispossession are made against the Bafna family. So far as the allegations regarding extortion are concerned, the amount is allegedly paid through bank RTGS to Sanjay Bhokare. It is important to note that, as far as the Bafna family members and Sanjay Bhokare are concerned, a report has been filed under Section 169 of the Cr. P.C. and they are not chargesheeted.

45. Allegations in the FIR filed on 9th February 2021 pertain to the period from 2nd September 2016 to 6th May 2020. Thus, the delay in filing the FIR would also be a crucial factor to consider in the present applications. Although the chargesheet was filed on 20th September 2021 and the supplementary chargesheet was filed on 15th February 2022, no charges have been framed till date. The submissions made on behalf of the learned Special PP, that the delay in framing the charge is only because various applications filed by accused no. 5-Ravindra Barhate has no substance. From the submissions made on behalf of the learned Special PP, it appears that accused no. 5-Ravindra Barhate, out of frustration, has filed various applications making allegations against the complainant. The last application, according to the learned Special PP, was filed sometime in 2024, which, according to the learned Special PP, was filed by accused no. 5-Ravindra Barhate stating that he would accept the allegations and that the investigating officer should prove the charges, shows the desperation on the part of the said accused that the charge should be framed and the trial should commence. Learned Special PP was unable to point out any material to show that these applicants

created a hurdle in framing the charge.

46. The submissions made on behalf of the applicants that they are not regularly produced before the Court would also be an important factor to be considered while deciding these applications. The aforementioned circumstances undoubtedly indicate a delay in the trial, with no attempt being made to frame the charge; therefore, there is no possibility of the trial commencing in the near future.

47. The arguments raised on behalf of the applicants regarding the invocation of the provisions of the MCOC Act on the ground that in none of the cases has a chargesheet been filed and cognizance taken before the date of the present offence, create a doubt on the applicability of the provisions of the MCOC Act. A perusal of the FIR and the allegations reveals the events from 2016 to May 6, 2020. The relevant statements pointed out by the learned Special PP do not pertain to any allegations after 9th May 2020. The particulars placed on record regarding filing of the chargesheet and taking cognizance are of August 2020. Though the present FIR is registered on 9th February 2021, the offence

alleged was committed from April 2016 to 6th May 2020. The Hon'ble Apex Court in the case of ***Mahipal Singh***, held that procedural requirement for prosecution of a person for an offence can later on be satisfied but ingredients constituting the offence must exist on the date the crime is committed or detected and the submission of chargesheets in more than one case and taking cognizance in such number of cases are ingredients of the offence and have to be satisfied on the date the crime was committed or came to be known. Thus, in the facts of the present case, there is substance in the submissions made on behalf of the applicants that the application of the provisions of the MCOC Act is doubtful in the present case.

48. There is no substantial material shown on record to point out any link with the organised crime syndicate or regarding continuity of any unlawful activity. The material on record, relied upon by the prosecution, is not of such a nature as to sustain a reasonable belief that the allegations against these applicants are prima facie proved. Hence, on the grounds of insufficient material against these applicants and the long period of incarceration in custody,

the embargo under sub-section (5) of section 21 of the MCOC Act shall not be an impediment to granting bail by this Court. Nothing is shown by the learned Special PP to support his submissions that there is a possibility of the trial commencing and early completion of the trial. The material in the chargesheet is prima facie insufficient to justify continuing to detain the applicants in custody. There is no material on record to substantiate the allegations made against the applicants. The material on record in the present case is insufficient to establish an offence comprising direct nexus with any unlawful activity. The allegations regarding the offence under the IPC sections are also not supported by sufficient material. The applicants cannot be detained for an indefinite period. Hence, on the grounds of insufficient material against these applicants, their long incarceration, and the absence of any remote possibility of early trial completion, these applicants have made out a case for grant of bail.

49. Learned Special PP points out that in view of the allegations made regarding threats given by these applicants, if they are released on bail, they should be prohibited from entering the limits

of Pune district. The complainant has passed away after the chargesheet was filed. Considering the material placed on record in the chargesheet, I do not find any substance in the objection raised on behalf of the learned Special PP that, in view of the threats given by these accused, they should be restricted from entering the limits of Pune District. I have already held that there is no material to support the allegations of threat given by these applicants.

50. Hence, for the reasons recorded above, the bail applications are allowed by passing the following order.

<u>O R D E R</u>

I. The applicants be enlarged on bail in connection with CR No. 79 of 2021 registered with the Chatturshrungi Police Station for the offences punishable under sections 406, 420, 506(2), 386, 387, 388, 389, 120(B), 109 read with 34 of the Indian Penal Code and under Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime Act, 1999 ('MCOC Act') on furnishing

P.R. Bond in the sum of Rs. 50,000/- each with one or more sureties in the like amount to the satisfaction of the Additional Special Judge, under MCOC Act, Pune, within six weeks.

II. Until then, the applicants shall be enlarged on a cash bail of Rs. 50,000/- each.

III. The applicants shall be immediately produced before the appropriate court to enable them to complete the bail formalities.

IV. If surety as directed by this order is not furnished within six weeks, the bail will stand cancelled.

V. The applicants shall attend and appear regularly before the Special Judge on all dates, unless specifically exempted by a written order from the Additional Special Judge under the MCOC Act, Pune.

VI. The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses, or any person concerned with the case.

VII. The applicants shall submit particulars of their place of residence and contact number to the Additional Special Judge under the MCOC Act, Pune, and these details shall not be changed without the leave of the Additional Special Judge under the MCOC Act, Pune.

VIII. The applicants shall not travel outside India without prior permission from the Additional Special Judge, under the MCOC Act, Pune.

51. The bail applications are allowed in the above terms.

52. If any of the bail conditions are breached, the prosecution will be entitled to apply for cancellation of the bail.

53. It is clarified that the observations in this order are restricted to deciding these applications, and the same shall not influence the trial court during the trial.

[GAURI GODSE, J.]