

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

Bail Application No. 4432 of 2024

Nikhil Balasaheb Khedekar

Age 24 years, Indian Inhabitant,

R/o.- Uruli Kanchana,

Tq: Haveli, Pune.

Presently lodged at Yerwada Jail.

... Applicant

versus

The State of Maharashtra

(@ Loni Kalbhor Police Station

vide C.R. No. 381 of 2021)

...Respondent

Ms Sana Khan a/w Ms Neha Balani, Mr Harsh Shah i/b SRK Legal, for the applicant.

Ms MM Deshmukh, Chief Public Prosecutor, a/w Mr PP Jadhav, APP, for respondent/State.

Mr Aniket Nikam for Intervenor.

PSI Digambar Sontakke, Loni Kalbhor Police Station, Pune City.

Coram: R.N. Laddha, J.

Date: 1 December 2025

P.C.:

By this application, the applicant seeks bail in connection with CR No.381 of 2021, registered at Loni Kalbhor Police Station, Pune, for offences punishable under Sections 302 and 120B read with 34 of the Indian Penal Code, Sections 4 read with 25 of the Arms Act, 1959, Sections 37(1)(3), 135 and 142

of the Maharashtra Police Act, 1951, Section 7 of the Criminal Law Amendment Act, and Sections 3(1)(i), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ('MCOCA').

2. The First Information Report (FIR) has been lodged at the instance of the deceased's brother, Santosh. Ramdas, the deceased, was a partner in Hotel Garva situated along the Pune-Solapur highway. On the evening of 18 July 2021, the deceased received a phone call, stepped outside the hotel, and was thereafter assaulted with a sharp weapon by an unidentified assailant, who delivered a fatal blow to his head. The assailant fled on a motorcycle driven by another accomplice. The deceased succumbed to his injuries. During the investigation, it was revealed that the present applicant, along with his father and other accused persons, had been alleged to have conspired to eliminate the deceased. The actual assault is attributed to accused No.11, who was allegedly hired for the execution of the homicidal act. The prosecution asserts that the applicant was the principal conspirator.

3. Ms Sana Khan, the learned Counsel appearing on behalf of the applicant, contends that the applicant has been falsely implicated, the FIR was initially against unknown persons, and

the applicant's name was subsequently introduced. It is submitted that the applicant was not present at the scene, no weapon was recovered from him, and no overt act is attributed to him. It is argued that there is no CCTV footage, electronic evidence, or CDR showing any communication between the applicant and the assailant. The alleged prior threats are said to be unsubstantiated, as no NC complaint was lodged by the deceased. The applicant has been incarcerated since 21 July 2021. Only two of the 97 proposed witnesses have been examined; therefore, it is submitted that the trial is likely to be prolonged. The co-accused with allegedly similar roles have been granted bail.

4. The learned Counsel further urged that the letter recovered from co-accused Saurabh alias Chimya has not been proved to bear the applicant's handwriting and does not mention the applicant by name. The statements of witnesses, such as Laxman, are argued to be vague and fail to specifically link the applicant to the crime. The invocation of MCOCA is also challenged as unwarranted.

5. In support of her contentions, the learned Counsel relies on (i) *Siddharth vs. State of Uttar Pradesh*, (2022) 1 SCC 676; (ii) *Paras Ram Vishnoi vs. The Director, Central Bureau of*

Investigation, SLP (Cri) No.3610 of 2020 dated 27 July 2021; (iii) Sarang Harish Patharkar vs. State of Maharashtra, SLP (Cri) No.7002 of 2025 dated 28 July 2025; (iv) Javed Gulam Nabi Shaikh vs. State of Maharashtra, (2024) 7 SCR 992; (v) Mohd Iliyas Mohamad Bilal Kapadiya vs. State of Gujarat, (2022) 13 SCC 817; (vi) Union of India vs. KA Najeed, SLP (Cri) No.11616 of 2019 dated 1 February 2021; (vii) Sagar Tatyaram Gorkhe vs. State of Maharashtra, SLP (Cri) No.7947 of 2015 dated 3 January 2017; (viii) Rameshwar Bandu Chaudhary vs. State of Maharashtra, 2025:BHC-AS:1381; (ix) Shambhu Ramlochan Saday vs. State of Maharashtra, 2024:BHC-AS:23408; (x) Shivram @ Shiva Keshavan Devendra vs. State of Maharashtra, 2025:BHC-AS:17036; (xi) Mastan Israr Ahmed Khan vs. The State of Maharashtra, 2025:BHC-AS:17054; (xii) Sonu Parmeshwar Jha vs. State of Maharashtra, 2023:BHC-AS:2780; (xiii) Shankar @ Bunty Ramchandra Dabhade vs. State of Maharashtra, SLP (Cri) No.4684 of 2023 dated 16 May 2023; (xiv) Avinash Anant Pawar @ Ajit Dada vs State of Maharashtra, SLP (Cri) No.1452 of 2022; (xv) Shakil Ahmed Peer Mohd Shaikh vs. Union of India, 2024 SCC OnLine Bom 832; and (xvi) Ranjana Tanaji Wanve vs. State of Maharashtra, SLP (Cri) No.12740 of 2024.

6. On the other hand, Ms MM Deshmukh, the learned

Public Prosecutor representing the respondent/ State, and Mr Aniket Nikam, the learned Counsel appearing for the intervenor, jointly oppose the applicant's plea for bail, submitting that there existed a strong business rivalry between the applicant's Hotel Ashoka and the deceased's flourishing Hotel Garva, resulting in sustained hostility and threats issued by the applicant to the deceased. The prosecution relies on the statements of several witnesses, including the deceased's wife, brothers, customers, the landlady, and independent witnesses, which consistently narrate the threats issued by the applicant and the co-accused, as well as the applicant's presence and active role in the conspiracy meetings. A handwritten note recovered at the instance of accused No.2 details the conspiracy and assigns roles to various members. The handwriting expert has confirmed the handwriting as that of accused No.2, and the note refers to the applicant's motive for financial and territorial gain. They further submit that the statements of witnesses such as Laxman Dhondiba and Mahadev Rajwade depict the applicant directly instigating the execution of the plan and expressing a desire to harm the deceased due to business rivalry. The statements of Vaibhav Vable and Nikhil Nimbalkar also refer to conspirators demanding money "for eliminating the goat," referring to the deceased. The prosecution further relies on Call Detail Records (CDRs), which show continuous

communication between the applicant and co-accused before and during the incident.

7. It is further submitted that the role attributed to the applicant is not identical to that of the co-accused and parity requires similarity in roles and circumstances, not merely that accused persons face the same charges. The learned PP submits that the prosecution proposes to examine no more than twenty-five witnesses, of whom two have already been examined. It is further submitted that the trial has commenced and, in view of the trial Court's order dated 11 November 2025, is directed to proceed on a day-to-day basis. It is contended that the grant of bail at this juncture would seriously prejudice the prosecution, as the applicant is an influential person within the locality and is likely to tamper with evidence and intimidate witnesses. The statutory embargo under Section 24 of the MCOCA is also pressed into service.

8. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records, including the affidavit-in-reply and the written notes of arguments.

9. At the stage of consideration of bail, the Court is not expected to conduct a meticulous evaluation of evidence but is

required to examine whether the material on record *prima facie* discloses the applicant's involvement. The consistent tenor of the witness statements, particularly those of the deceased's family members, independent witnesses, and customers, reveals that the deceased had repeatedly reported receiving threats from the applicant owing to business rivalry. These statements are not isolated but show a pattern of intimidation allegedly resorted to by the applicant. The witness statements of Laxman Dhondiba, Mahadev Rajwade, Aaba Lavande, Indubai Khedekar, and others, collectively suggest that (i) the applicant had a clear motive, (ii) he was seen associating with the co-accused in the days immediately preceding the offence, and (iii) he allegedly instigated and designed the commission of the crime. The handwritten note recovered at the instance of accused No.2, though not authored by the applicant, constitutes material that the prosecution is entitled to rely upon at this stage, especially when corroborated by multiple witness statements. The handwriting expert's authentication strengthens its evidentiary relevance.

10. The prosecution has further relied on CDRs to suggest communication between the applicant and co-accused proximate to the occurrence. At this stage, such technical evidence cannot be discarded. Furthermore, the contention that

co-accused similarly situated have been granted bail cannot, in the facts of this case, support the applicant's plea. The material placed on record specifically attributes the motive and leadership role in the conspiracy to the applicant. Parity cannot be claimed where roles are distinct.

11. The seriousness and gravity of the offence, an alleged contract killing executed pursuant to a detailed conspiracy, militate against the grant of bail. The invocation of MCOCA introduces an additional statutory bar under Section 24, which requires the Court to be satisfied that the applicant is not guilty of the alleged offence and is not likely to commit any offence while on bail. At this stage, in view of the extensive material implicating the applicant as the principal conspirator, such satisfaction cannot be recorded.

12. The apprehension expressed by the prosecution that the applicant, if enlarged on bail, may influence witnesses is not unfounded. Many key witnesses are local residents familiar with the applicant and his family, and the material available on record indicates the applicant's influence in the locality. Two witnesses have already been examined, and the trial is directed to proceed expeditiously. The argument regarding the delay in trial also does not merit acceptance at this stage, particularly in

view of the trial Court's direction for day-to-day hearing. The applicant has not demonstrated any deliberate or systemic delay attributable to the prosecution.

13. In light of the gravity of the offence, the *prima facie* material indicating the applicant's active role in the conspiracy, the statutory bar under Section 24 of MCOCA, and the likelihood of witness tampering, this Court is satisfied that the applicant has not made out any case for the grant of bail. Accordingly, the present bail application stands rejected.

14. The trial Court is directed to continue the trial expeditiously in accordance with its order dated 11 November 2025. It is clarified that the observations set out herein are of a *prima facie* nature and are made solely for the purpose of deciding the present bail application.

[R.N. Laddha, J.]