

VRJ

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

BAIL APPLICATION NO.4473 OF 2024

Rahul Krupashankar Dubey	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
BAIL APPLICATION NO.4531 OF 2024**

Anurag Ganeshdatta Pandey	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Mihir Desai, Senior Advocate with Prabhat Dubey, P. Shukla, Shailendra Singh, Aarti Yadav, Arusha Mishra, Nikita P. and Aman Singh for the applicant in BA/4473/2024.

Mr. Ashok Kumar Dubey i/by Abhinav Dubey and Amit Tiwari for the applicant in BA/4531/2024.

Mr. Sagar R. Agarkar, APP for the State in both the applications.

Mr. D. H. Tamboli, PSI, Virar Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 2, 2025

P.C.:

1. The present bail applications are filed by accused Anurag Ganeshdatta Pandey and Rahul Krupashankar Dubey under Section 439 of the Code of Criminal Procedure, 1973, seeking

regular bail in connection with Crime No. I-232 of 2022, registered at Virar Police Station. The accused are being prosecuted for serious offences punishable under Sections 302, 201, 212, and 120-B of the Indian Penal Code, 1860; Sections 3, 25 and 27 of the Arms Act, 1959; and Sections 3(1)(i), 3(1)(u), 3(2), 3(3), and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act).

2. As per the First Information Report dated 26th February 2022, the informant Shashikant Chauhan, who is a vegetable vendor residing at Manvel Pada, Virar, reported that his brother Samayjeet alias Samay Chauhan, who was engaged in the business of construction and resided at Agrawal Complex in Virar, had longstanding disputes with other builders, including the present accused Anurag Pandey, over a property situated at Phulpada. These disputes had persisted for more than a decade. In September 2020, one Nishant Kadam was murdered, and it was wrongly suspected by some that Samay Chauhan was involved in the said murder. However, as per the informant, the deceased was not concerned with that incident in any manner.

3. On the day of the incident, i.e., 26th February 2022, at around 1:30 p.m., the informant received a phone call from one Sunil Gupta, informing him that someone had opened fire on his brother Samay Chauhan and that he had been taken to the hospital. The informant immediately rushed to the spot and was informed by one Kadir Khan that while Samay was proceeding from his office towards his car, two unknown persons arrived and fired four gunshots at him, following which they fled on a

motorcycle. The victim was taken to Alliance Hospital, where he was declared dead.

4. Based on the report lodged by the informant, Virar Police Station registered the offence and began the investigation. During the course of investigation, certain accused persons were arrested. The investigating machinery unearthed a broader criminal conspiracy involving other builders, including the present accused Rahul Dubey. The material collected during investigation revealed that the deceased Samay Chauhan had started gaining prominence and influence in the construction business in Virar. Owing to this, certain rival builders, including Rahul Dubey and his associates, allegedly conspired to eliminate him. In furtherance of this criminal conspiracy, the accused are stated to have approached one Subhashsing Thakur, a convict undergoing life imprisonment who at the relevant time was under treatment at Banaras Hindu University Hospital. A contract was allegedly given to Subhashsing Thakur for eliminating the deceased. In furtherance thereof, in June 2021, Subhashsing Thakur is said to have sent Rahul Sharma, Abhishek Singh, and Arjun Singh to Virar. However, the plan did not materialise at that time.

5. Subsequently, in February 2022, the said Subhashsing Thakur is alleged to have entrusted the task to his associates, namely Rahul Sharma, Manish Singh, Arjun Singh, and Abhishek Singh. These accused persons are stated to have travelled from Uttar Pradesh to Virar. Their accommodation and logistical support were allegedly arranged by co-accused Akhilesh Tiwari, with the help of present accused Rahul Dubey, Anurag Pandey, and others

such as Sham Yadav and Rajkumar Yadav. The group is alleged to have conducted recce (reiki) of the daily routine of the deceased and on the fateful day of 26th February 2022, at around 1:30 p.m., accused Manish Singh fired four rounds at the deceased from a pistol, while co-accused Rahul Sharma waited on a motorcycle to assist in the escape. Following the incident, the accused persons fled from the scene. Several arrests were made thereafter, and the police seized mobile phones and vehicles allegedly used in the commission of the offence.

6. The investigation further revealed that the accused persons were part of an organised crime syndicate headed by co-accused Rahul Sharma. Consequently, the provisions of the Maharashtra Control of Organised Crime Act, 1999 were invoked. During custodial interrogation, the accused Rahul Sharma and Arjun Singh voluntarily expressed their willingness to confess and accordingly, their confessional statements under Section 18 of the MCOC Act were recorded by the competent officer. It is noted that some of the accused are still absconding. On completion of the investigation, the police filed a charge sheet against the arrested accused persons.

7. Learned Senior Advocate appearing for the applicant in Bail Application No.4473 of 2024, and the learned Advocate representing the applicant in Bail Application No.4531 of 2024, have advanced submissions in support of their respective applications. Insofar as the applicant in Bail Application No.4473 of 2024 is concerned, it is submitted that the role attributed to him is that of a conspirator in the alleged plan to eliminate the

deceased, Samay Chauhan. The primary material relied upon by the prosecution to implicate him consists of two confessional statements recorded under Section 18 of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act), by co-accused persons. In addition, the prosecution relies upon the statements of two witnesses—one of whom has allegedly seen the applicant visiting co-accused Subhash Thakur at the Banaras Hindu University Hospital, and another who claims to have been directed by the applicant to dispose of certain belongings of the accused persons after the incident. It is further submitted that the applicant has no prior criminal antecedents and is otherwise a law-abiding citizen. The learned counsel, therefore, contends that the applicant is entitled to be released on bail.

8. As regards the applicant in Bail Application No.4531 of 2024, it is submitted that the role attributed to him is similar, inasmuch as he is alleged to have assisted in the execution of the actual act of murder. However, it is pointed out that, on the relevant date in February 2022, the applicant could not be present as his father had passed away. The material relied upon by the prosecution against this applicant is also substantially similar to that relied upon in the case of the applicant in Bail Application No.4473 of 2024—namely, confessional statements of co-accused and statements of witnesses alleging the applicant's nexus with Subhash Thakur. However, the distinguishing factor in his case is that he has two prior criminal cases to his discredit. The first pertains to Crime No.659 of 2021 registered at Virar Police Station, involving charges under Sections 326, 143, 147, 148, and 149 of

the Indian Penal Code, 1860. The second case is Crime No.304 of 2018 registered at the same police station for offences under Sections 509, 143, 149, 504, 506, and 34 of the IPC. It is submitted that while these antecedents may reflect past involvement, they are not of the nature or gravity of the present offence and should not, by themselves, deprive the applicant of consideration for bail.

9. Learned Additional Public Prosecutor (APP), opposing both applications, submits that the material on record discloses a well-planned and premeditated conspiracy to eliminate the deceased, executed in furtherance of an organised crime syndicate. It is submitted that the applicants were not only aware of the plan but actively participated in its design and execution. Particular emphasis is laid on the confessional statements of co-accused recorded under Section 18 of the MCOC Act, which according to the prosecution, are voluntary and corroborated by other material. The learned APP submits that the applicants had approached co-accused Subhashsing Thakur, a convict undergoing life imprisonment, who was at the relevant time receiving treatment at Banaras Hindu University Hospital. The applicants are alleged to have visited him in the hospital and entrusted him with the task of eliminating the deceased by offering a contract for his murder. In pursuance thereof, co-accused Rahul Sharma, Abhishek Singh, and Arjun Singh were sent to Virar in June 2021; however, the plan could not be executed at that time. The learned APP submits that these circumstances, taken together, constitute sufficient material to connect the applicants to the offence, and hence, the

applications do not merit favourable consideration.

10. I have carefully considered the submissions advanced by the learned Senior Advocate and the learned Advocate appearing for the respective applicants, as well as the contentions of the learned Additional Public Prosecutor opposing the applications. I have also perused the material placed on record, including the charge-sheet, statements of witnesses, and confessional statements under Section 18 of the MCOC Act.

11. Insofar as the applicant in Bail Application No.4473 of 2024 is concerned, the material on record shows that the role attributed to him is of a conspirator. The prosecution relies heavily on confessional statements of co-accused and two witnesses—one of whom is said to have seen the applicant meeting co-accused Subhash Thakur at the Banaras Hindu University Hospital, and another who was allegedly told by the applicant to dispose of the belongings of accused persons. The statements of the said two witnesses, though relevant, are based on events that occurred in circumstances which may require scrutiny at the stage of trial. Prima facie, no overt act has been attributed to the applicant in furtherance of the actual execution of the offence.

12. It is also pertinent to note that the applicant in Bail Application No.4473 of 2024 does not have any past criminal record. He has roots in society and is not shown to be a flight risk. The investigation is complete and charge-sheet has already been filed. No further custodial interrogation is shown to be necessary. The applicant has been in custody for a considerable period since

his arrest, and the trial is not likely to conclude in the immediate future considering the number of accused and witnesses.

13. As regards the applicant in Bail Application No.4531 of 2024, though the role attributed to him is that he is alleged that he was actively involved in executing the act of murder. However, the material to substantiate such claim again consists of confessional statements of co-accused and the same set of witnesses as relied upon for the other applicant. Moreover, it is submitted that he was not present at the scene due to the death of his father, and this aspect has not been seriously disputed. While it is true that the applicant has two prior criminal cases to his discredit, the said offences are not of the nature of organized crime or murder, and the presumption of innocence continues to operate in his favour.

14. The Supreme Court in *K.A. Najeer v. Union of India*, (2021) 3 SCC 713, has observed that even in cases involving special statutes, prolonged incarceration and delay in trial can be valid grounds for grant of bail. In the present case, both applicants are in custody since 2022, the investigation is over, and the trial is yet to begin.

15. Considering the totality of the circumstances, the nature of evidence, absence of any overt act directly attributable to the applicants, the period of custody already undergone, and the likelihood of further delay in trial, I am of the opinion that continued incarceration of the applicants is not warranted at this stage.

16. Hence, the following order is passed.

17. The applicants Rahul Krupashankar Dubey and Anurag Ganeshdatta Pandey are directed to be released on bail in connection with Crime No I-232/2022, registered with Virar Police Station, for offences punishable under Section 302, 201, 212, 120-B of the Indian Penal Code, 1860; under Section 3, 25 and 27 of the Arms Act; and under Section 3(1)(i), 3(1)(u), 3(2), 3(3) and 3(4) of the Maharashtra Control of Organized Crimes Act, upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) (each) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicants shall not tamper with the evidence or attempt to influence any witness.
- b) The applicants shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
- c) The applicants shall report to the Virar Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.
- d) The applicants shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- e) The applicants shall not indulge in any criminal activity during the pendency of the trial.

18. The bail applications are disposed of in the aforesaid terms.

(AMIT BORKAR, J.)