

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 5054 OF 2024

Vikrant Jaywant Bhoir ... Applicant
V/s.
State of Maharashtra & Anr. ... Respondents

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Mr. Vijay Hiremath with Mr. Swaraj Jadhav i/b Mr.
Vivek Arote, for the applicant.

Mr. Sagar R. Agarkar, APP for the State – respondent.

Mr. Sachin Gode, ASI, Nhava Sheva Police Station is
present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 30, 2025

P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on bail in connection with Crime Register No.176 of 2022 registered with Nhava Sheva Police Station. The offences alleged are under Sections 364A, 387, 384, 341, 120B, 323, 504, 506(2), read with 34 of the Indian Penal Code, 1860, and under Sections 3(1)(ii), 3(2), 3(3), 3(4), and 3(5) of the Maharashtra Control of Organised Crime Act, 1999.

2. According to the prosecution, on 4 July 2022, at about 11.00 a.m., the first informant along with his father's friend Khalid Khan and his driver Tosif Shaikh had gone to ONGC Company at Nhava

Sheva for work. Around 1.00 to 1.30 p.m., the applicant called the informant on WhatsApp and asked him to come near Nhava Gaon bridge. At that spot, the applicant was seen standing near a Honda City car in which three co-accused were seated. The applicant asked the informant to sit in the car. Once the informant entered, co-accused Vicky Deshmukh allegedly threatened him at gunpoint and demanded Rs.20 crore. The informant stated that he did not have such money. Thereafter, the applicant was made to alight from the car by the co-accused, and the car proceeded with the informant inside.

3. It is further alleged that the informant was taken in a handcuffed condition to a bungalow near a hill where he was assaulted and threatened with a pistol and injections. Under fear, he agreed to pay Rs.1 crore. His mother, at the behest of his driver Tosif Shaikh, sent Rs.30 lakh to the co-accused at Vashi Bridge between 8.00 to 9.00 p.m. After receiving the money, the co-accused released the informant. Based on this complaint, the FIR was registered with Nhava Sheva Police Station.

4. The learned advocate for the applicant has drawn attention to the statement of the informant, who stated that although the applicant called him and made him sit in the car, the gang leader later asked the applicant to get down from the car. This, according to the applicant, shows that he was not a member of the gang. It was submitted that the alleged confessional statement of the applicant pertains to Crime Register No.490 of 2019 of Neral Police Station, and hence is inadmissible. It was further contended that the sanction under Section 23(2) of the MCOC Act reflects

non-application of mind. The applicant has been in custody since 6 July 2023. The prosecution has cited 33 witnesses and, therefore, the trial will not conclude in the near future. On these grounds, it was urged that the applicant be released on bail.

5. On the other hand, the learned APP opposed the application. It was submitted that the tower location of the applicant's mobile phone, supported by certificate under Section 65B of the Evidence Act, confirms his presence at the relevant spot. The investigation shows that the gang led by Vicky Deshmukh is involved in organised crimes such as dacoity, extortion, kidnapping, murder, riots, and grievous assaults in Raigad district. Statements of witnesses and the confessional statement of the applicant in Crime Register No.490 of 2019 indicate his association with the gang. It was emphasised that the applicant himself called the informant and brought him to the place where the accused were waiting. He sat with the informant and the gang leader inside the car when threats were issued. Thus, the applicant has played a direct role in kidnapping the informant.

6. It was further submitted that the applicant has six criminal antecedents, five of which involve offences against the human body including murder and kidnapping, whereas the gang leader has 45 antecedents. The call detail records establish active involvement of the applicant. The sanction order under the MCOC Act contains detailed reasons. Hence, in view of Section 21(4) of the MCOC Act, which restricts the grant of bail, the application deserves to be rejected.

7. Having heard the submissions of both sides and upon perusal of the material on record, I proceed to record my reasons as under:

8. The applicant is facing serious charges under Sections 364A, 387, 384, 341, 120B, 323, 504, 506(2) read with 34 of the Indian Penal Code and under various provisions of the Maharashtra Control of Organised Crime Act, 1999. The nature of accusations is grave, involving kidnapping for ransom, demand of Rs.20 crores, threat at gunpoint, physical assault, and extortion of Rs.30 lakhs. These offences strike at the very root of public safety and law and order.

9. The prosecution case, on a prima facie reading of the FIR and charge-sheet, shows that the applicant called the informant on WhatsApp and lured him to the spot where the co-accused were waiting. The applicant was present at the scene, made the informant sit inside the Honda City car, and travelled along with him and the gang leader. Threats to kill were issued in his presence. This shows that the applicant was not a mere bystander but an active participant in the chain of events leading to the kidnapping.

10. The submission of the defence that the applicant was later asked by the gang leader to get down from the car does not absolve him of liability. The act of enticing the informant and ensuring his presence at the spot facilitated the commission of the crime. Even if he did not accompany the victim till the end, his role in the initial stage amounts to active participation and attracts the rigours of MCOC Act.

11. The call detail records also indicate his active involvement. These circumstances prima facie corroborate the prosecution case.

12. The applicant has six criminal antecedents to his discredit, five of which relate to offences against human body including murder and kidnapping. This shows a pattern of criminal conduct. The gang leader with whom the applicant is associated has as many as 45 antecedents. Such antecedents cannot be ignored at the stage of considering bail in organised crime cases.

13. The contention that the confessional statement is inadmissible is a matter to be decided at trial. At the stage of bail, this Court is not required to test admissibility of every piece of evidence. What is required is to see whether there is material creating reasonable grounds for believing the accusation to be true.

14. The sanction order under Section 23(2) of the MCOC Act has been passed after assigning detailed reasons. Whether the sanction suffers from any defect of non-application of mind is again a matter of trial. At this stage, prima facie validity of the sanction is sufficient to enable the prosecution to proceed.

15. Section 21(4) of the Maharashtra Control of Organised Crime Act, 1999, imposes a strict bar upon grant of bail. The section provides that bail can be granted only when the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The provision, therefore, places a higher burden on the accused as compared to ordinary

cases under the Code of Criminal Procedure.

16. In the present case, the allegations are of a grave nature. The applicant is alleged to have lured the informant to the spot by making a WhatsApp call, thereby facilitating the kidnapping. He was present with the informant and the gang leader inside the car at the stage when threats to kill and demands of ransom were made. His role, therefore, cannot be termed as peripheral or casual. It was integral to the chain of events.

17. The contention of the defence that the applicant was asked to get down from the car midway does not erase his earlier involvement. The act of bringing the informant into the clutches of the gang itself amounts to active participation in the offence. At this stage, the material collected during investigation, including tower location, call detail records, and witness statements, prima facie corroborate the case of the prosecution.

18. Further, the antecedents of the applicant show six prior cases, five of which involve offences against human body such as murder and kidnapping. These antecedents reflect a pattern of criminal conduct and association with organised crime. The gang leader with whom the applicant is alleged to be associated has as many as forty-five antecedents. This indicates that the activities are not isolated, but part of an organised syndicate which the MCOC Act seeks to suppress.

19. In such circumstances, this Court cannot record satisfaction that the applicant is not guilty of the offence. On the contrary, there are reasonable grounds for believing the accusations to be

true. Equally, the requirement that the applicant is not likely to commit any offence while on bail cannot be met, in view of his past record and continued association with the gang.

20. Thus, the statutory bar under Section 21(4) operates against the applicant. The rigours of this provision leave no scope for grant of bail when the material on record shows prima facie involvement in organised crime.

21. The argument regarding delay in trial due to examination of 33 witnesses also does not help the applicant. Gravity of the offence, threat to public peace, and the impact of organised crime outweigh the ground of delay. Speedy trial is a constitutional right, but in cases involving organised crime, the liberty of one individual cannot override the larger interest of society and the need to curb such activities.

22. Thus, taking an overall view of the matter, I find that there exist reasonable grounds for believing the accusations against the applicant to be true. The stringent conditions of Section 24A of the MCOC Act are not satisfied. Hence, the applicant is not entitled to bail.

23. Accordingly, the application stands rejected.

(AMIT BORKAR, J.)