AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 5057 OF 2024

Vikrant Jaywant Bhoir … Applicant

V/s.

State of Maharashtra … Respondent

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. Rajendra Ghevadekar, API, Panvel City 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. 647 of 2022 registered at Panvel City Town Police Station. The applicant has been booked for offences punishable under Sections 386, 452, 506, 120-B read with 34 of the Indian Penal Code, 1860, and under Sections 3(1)(ii), 3(2), and 3(4) of the Maharashtra Control of Organised Crime Act, 1999.

2. The prosecution case in brief is that in October 2020, co-accused Bala Deshmukh arrived at the complainant’s residence along with about 40 to 50 persons. Out of them, around 20 to 25 forcibly entered the house and threatened the complainant. He was told that unless he pays Rs. 25 lakhs to co-accused Vikrant Deshmukh, he would be killed. It is further alleged that the complainant was directed to make a monthly payment of Rs. 50,000 to the said co-accused, failing which he would face dire consequences. Out of fear for his life, the complainant agreed.

3. It is then alleged that in November 2020, the complainant received a WhatsApp call from the present applicant, who informed him that he had been instructed to collect the monthly instalments and hand them over to the mother of co-accused Vikrant Deshmukh. From November 2020 till May 2022, the applicant regularly collected Rs. 50,000 per month from the complainant and delivered it to the mother of the co-accused. In August 2022, on learning about the arrest of Vikrant Deshmukh, the complainant realised that the collection would stop. Thereafter, the applicant too came to be arrested. On gaining courage, the complainant lodged the report against the accused persons.

4. Learned counsel for the applicant submitted that there is no recovery from or at the instance of the applicant. He argued that the applicant was never a member of any organised crime syndicate. He did not gain any monetary benefit. The applicant has been in custody since 27 July 2023. The trial is not likely to conclude in the near future, as 17 witnesses have been cited by the prosecution. It is therefore urged that the applicant be enlarged on regular bail.

5. Learned APP opposed the application. He relied upon the statement of a witness recorded on 29 November 2022, wherein it is specifically stated that the applicant used to demand Rs. 50,000 per month and was often accompanied by three to four associates. The witness further stated that whenever WhatsApp facility was not available, the applicant made regular phone calls. Reliance is also placed on another witness statement dated 8 November 2022, which records that between November 2020 and May 2022, the applicant collected Rs. 50,000 per month from the staff of the complainant as per the directions of gang leader Vikrant Deshmukh and deposited the same with the latter's mother.

6. The witness clarified that out of fear of the gang, he did not lodge a complaint earlier. Learned APP also pointed out that the applicant has six criminal antecedents, five of which relate to offences against the human body, whereas 45 offences have been registered against gang leader Vikrant Deshmukh. He further relied upon a confessional statement recorded under Section 18 of the MCOC Act in Crime Register No. 490 of 2019 registered at Neral Police Station, which according to him, corroborates the active participation of the applicant in the syndicate led by gang leader Vikrant Deshmukh. He therefore submitted that in view of the bar under Section 21(4) of the MCOC Act, the applicant is not entitled to bail.

7. I have considered the submissions. Section 21(4) of the MCOC Act places a statutory restriction on the grant of bail. Bail can be granted only if the Court is satisfied that there are reasonable grounds for believing that the applicant is not guilty of the alleged offence, and that he is not likely to commit any offence while on bail. This twin requirement must be strictly fulfilled before bail is considered.

8. In the present case, the material gathered during the course of investigation requires close scrutiny. The sta14 pttements of the complainant and witnesses consistently point towards the role of the applicant in collecting extortion money on behalf of the gang leader. These statements are not vague or casual in nature. They specifically mention the period, the mode of communication, the monthly payments, and the fact that the amounts collected were delivered to the mother of the gang leader. Such details lend credibility to the prosecution version.

9. It is further important to note that the alleged acts are not confined to one incident or an isolated occurrence. The material shows that the applicant repeatedly visited the complainant for nearly one and a half years, from November 2020 till May 2022, and collected a fixed monthly amount. This demonstrates continuity of conduct. The concept of "organised crime" under the Maharashtra Control of Organised Crime Act, 1999, does not rest merely on a single act of intimidation or extortion. It contemplates repeated, systematic and organised activities carried out for pecuniary gains or to establish dominance by unlawful means. The conduct attributed to the applicant fits into this definition.

10. The consistency between the complainant's version and the statements of other witnesses further strengthens the prosecution case at this stage. The witnesses have deposed about specific instances where the applicant contacted them through WhatsApp calls or regular calls when WhatsApp facility was unavailable, and thereafter collected the extortion amount. The fact that these witnesses refrained from approaching the police earlier, owing to fear of the gang, is also a circumstance which cannot be ignored. Fear and silence on the part of victims or witnesses is a common feature in organised crime, and therefore their subsequent disclosure, once the gang leader was arrested, appears natural and probable.

11. The defence plea that there is no recovery from the applicant cannot dilute the impact of this material. In offences of organised crime, recovery of money is not the sole test. Oral testimony, supported by circumstances and conduct, is sufficient to indicate participation. What emerges from the record is a pattern of deliberate, repeated and systematic collection of money by the applicant at the behest of the gang leader.

12. Therefore, the material available at this stage prima facie indicates that the applicant was not a mere bystander but an active participant in carrying out the extortion scheme of the syndicate. His role is integral to the functioning of the organised crime group, and the allegations disclose not a stray act but continuous participation in organised activity spread over a long period of time.

13. The contention of the applicant that no recovery is effected does not hold much weight in the backdrop of specific oral evidence showing his repeated involvement. The antecedents of the applicant, six in number, out of which five are related to offences against human body, further strengthen the apprehension that he is likely to indulge in similar offences if released on bail.

14. The confessional statement recorded under Section 18 of the MCOC Act in another crime also reflects his active association with the syndicate. This material, at this stage, provides reasonable grounds to believe that the applicant is involved in the commission of organised crime under the MCOC Act.

15. The learned counsel for the applicant further submitted that the prosecution has sought to rely upon a confessional statement recorded under Section 18 of the MCOC Act in connection with Crime Register No. 490 of 2019 registered with Neral Police Station. It is his contention that such confessional statement does not pertain to the present crime and is, therefore, inadmissible. According to him, reliance on such material is impermissible and cannot be used against the applicant in deciding the present bail application.

16. At this stage, it is necessary to note that the question of admissibility of a confessional statement and its evidentiary value will be finally examined by the Trial Court at the stage of trial. However, for the limited purpose of considering bail under Section 21(4) of the MCOC Act, the Court is required to see whether there exists prima facie material connecting the applicant with the organised crime syndicate. The statement relied upon may not be conclusive proof of guilt, but it can be taken into account along with other circumstances to assess the applicant's role.

17. It is well settled that the bar under Section 21(4) of the MCOC Act operates in a stringent manner. Unless the Court is satisfied that there are reasonable grounds for believing that the applicant is not guilty, bail cannot be granted. In such situation, even if one particular piece of evidence is contested on the ground of admissibility, the Court cannot overlook the larger picture arising from the statements of witnesses, the consistent role attributed to the applicant, and his repeated participation in extortion activities over a prolonged period.

18. Thus, even leaving aside the confessional statement pertaining to Crime Register No. 490 of 2019, the statements of the complainant and witnesses in the present case, coupled with the antecedents of the applicant, are sufficient to hold that the applicant's involvement in the organised crime syndicate is prima facie established. Therefore, the objection raised regarding admissibility of the earlier confessional statement does not persuade this Court to take a different view on the bail application.

19. Considering the nature and gravity of accusations, the antecedents of the applicant, and the statutory bar contained in Section 21(4) of the MCOC Act, I am unable to record satisfaction that the applicant is not guilty of the offence or that he will not indulge in further offence if released. The requirements of Section 21(4) not being satisfied, the applicant cannot be enlarged on bail.

20. Hence, the bail application stands rejected.

(AMIT BORKAR, J.)