AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.5094 OF 2024

Amit Madhukar Bhogle … Applicant

V/s.

The State of Maharashtra … Respondent

Ms. Sana Raees Khan with Mr. Sumit Sharma, Ms. Vidya Lohamate, Ms. Neha Balani, Ms. Dipti Jadhav, and Ms. Divya Parab for the applicant.

Ms. Veera Shinde, APP for the respondent-State.

Mr. Chandrakant Jadhav, ACP, D-East Crime Branch with Ms. Rajashree Balgi, PI, DCB, CID, Unit-7, are present.

CORAM : AMIT BORKAR, J.

DATED : JULY 29, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant is seeking his release on regular bail in connection with Crime Register No. 89 of 2021 registered with D.C.B./C.I.D. Unit 7, Mumbai. The offences alleged against the applicant are of a serious nature and are punishable under Sections 302, 326, 342, 144, 148, 149, 506, and 120-B read with Section 34 of the Indian Penal Code, 1860. In addition, offences under Sections 37(1)(a) and 135 of the Maharashtra Police Act, Sections 3, 4 and 25 of the Arms Act, and Sections 3(1)(i), 3(2), and 3(4) of the Maharashtra Control of

Organized Crime Act, 1999 (hereinafter referred to as "MCOCA") have also been invoked against them.

2. The prosecution case, in brief, is that on 3rd October 2021, after winding up his daily work, the first informant had gone to the Chinese eatery run by the deceased, namely, Suraj Mehra @ Nepali, around 7:30 p.m. The said Suraj Mehra @ Nepali, along with the complainant and two other friends, continued with the hotel work till about 10:00 p.m., and thereafter, they collectively cleaned and closed the hotel by around 1:00 a.m. on 4th October 2021.

3. It is alleged that at about 12:30 a.m., a phone call was received at the hotel from one Rahul @ Rahulya Vilas Jadhav, who wanted to place a food order. However, since the kitchen was closed, the friend of the deceased who received the call declined the order. Around 2:00 a.m., after finalizing the day's accounts, the deceased Suraj Mehra @ Nepali, the complainant, and two other friends started for their respective homes. One of the friends parted ways and went home from the parking area of one Sachin Dhananjay Kulkarni @ Chingya, while the complainant and the deceased continued to walk towards their homes.

4. The prosecution further alleges that at approximately 2:20 a.m., near Komal Yadav Chawl, the complainant and the deceased were intercepted by accused Sachin Dhananjay Kulkarni @ Chingya and Piyush Priyadarshan Naik. Suddenly, accused Umesh Bharat Kadam came running towards the deceased with a sword in hand and attempted to assault him. While the complainant and the deceased tried to defend themselves, they were allegedly attacked further by accused Sushil @ Sada @ Jayaram Sadanand Sawant and Rahul @ Rahulya Jadhav using sharp-edged weapons such as choppers.

5. The prosecution version continues that the said Sushil @ Sada allegedly dragged the complainant towards the end of the lane and asked him to leave the spot. Fearing for his life, the complainant moved away, but turned around to look for the deceased. He allegedly saw that the deceased was being attacked by the accused persons. In an attempt to escape, the deceased reached near Ashtavinayak Dairy, but fell down. Seizing the opportunity, Umesh Bharat Kadam is alleged to have delivered a fatal blow with a sword on the deceased's abdomen, and the other accused persons continued to assault him with swords and choppers.

6. The complainant states that he immediately called one of their common friends for help. Meanwhile, the police arrived at the scene. The injured Suraj Mehra @ Nepali was taken to Mulund General Hospital, where he was declared dead on arrival. According to the prosecution, the applicant is the leader of the organised crime syndicate and the principal conspirator in the commission of the present offence.

7. Learned Advocate appearing on behalf of the applicant has submitted that initially the investigation in the present offence was conducted by Bhandup Police Station and was registered as Crime No. 558 of 2021. However, the said crime was thereafter transferred to D.C.B., C.I.D., Unit 7, Mumbai, and came to be re-registered as Crime No. 89 of 2021. It is submitted that the first charge-sheet came to be filed on 1st January 2022 against accused Nos. 1 to 7. The present applicant was not named in the said charge-sheet. It is only in the supplementary charge-sheet dated 23rd February 2022 that the applicant came to be arrayed as Accused No.10.

8. It is further submitted that invocation of the provisions of the MCOCA against the present applicant is legally untenable and unjustified, as there is an inordinate delay of nearly one year in granting prior approval for applying MCOCA. In the present case, the applicant was arrested on 28th September 2021, whereas prior approval under Section 23(1)(a) of MCOCA was granted only on 23rd September 2022, almost a year later. Moreover, the sanction under Section 23(2) was granted nearly three years and four months after the applicant's arrest. Such delay, it is contended, goes to the root of the applicability of MCOCA and renders its invocation arbitrary and unlawful.

9. The learned Advocate further contended that there is no material on record to substantiate the allegation that the present applicant is a "gang leader" as defined under MCOCA, or that he has committed an organised crime as contemplated under Section 2(1)(e) of the said Act. It is argued that the offence under Section 302 of the IPC is not made out against the applicant, and there is no direct evidence of his involvement in the conspiracy or execution of the murder. The applicant has cooperated with the investigation throughout and is not a flight risk. It is further pointed out that charges have not been framed till date, and the prosecution has cited as many as 145 witnesses, due to which there is no likelihood of the trial concluding in the near future.

10. As regards the basis of arrest, it is argued that the applicant has been implicated solely on the basis of a statement made by co-accused Mahadev Babu Gavandi, which was recorded nearly two months after the incident, i.e., between 11th and 14th December 2021. It is submitted that Mahadev Gavandi himself is a co-accused with the applicant in an earlier crime bearing No. 314 of 2013 registered under Section 302 IPC and Sections 3(1)(ii), 3(2), 3(3), and 3(4) of MCOCA. Therefore, the reliability of his version is seriously doubtful. Furthermore, the prosecution has failed to produce any documentary or financial trail to show any link or transaction between the present applicant and the co-accused Ramchandra Raut @ Kaka Raut.

11. It is further submitted that the prosecution has sought to rely on a statement made by co-accused Kaka Raut to the effect that he was instructed by the applicant to eliminate the deceased Suraj Mehra @ Nepali. It is contended that this is purely a hearsay statement, and an extrajudicial confession made to another co-accused is inherently weak and not reliable as per settled principles of criminal law. Similarly, the statement of co-accused Rahul Jadhav that he went to collect money from the present applicant was recorded after a delay of four months. However, the transcripts of telephonic conversations between Rahul Jadhav and Kuskan do not contain any reference to the commission of murder or any criminal conspiracy.

12. The statement of witness Kajal, recorded after four months, refers only to an alleged statement made by co-accused Sada that "after Bhai's work is done, I will see Kajal." It is pointed out that this does not mention the name of the applicant anywhere. Even when Kajal refers to co-accused Umesh, there is no reference to the applicant in the same breath. Likewise, the statement of witness Mukesh Barot does not disclose any reference to the applicant in the context of conspiracy or criminal planning. The statement of witness Sangit Chand, who is alleged to have been present with the applicant and other co-accused in Hotel Court Yard, does not mention anything about any conspiracy. The statement of Akshay Kadam, recorded after two months, only refers to the applicant and others discussing picnic and temple visit, but does not attribute any conspiracy or motive to the applicant.

13. It is further submitted that the Call Detail Records (CDR) between the applicant and co-accused Kaka Raut for the relevant period, i.e., 4th October 2021, does not show any communication or exchange of calls. Therefore, the allegation of conspiracy or instructions given by the applicant is without corroboration.

14. It is further contended that each of the main accused persons, namely, Ramchandra Raut @ Kaka, Rahul Jadhav, Umesh, and Sushil @ Sada, had their own individual motives for committing the alleged crime and were not acting on the instructions of the present applicant. There is no cogent material to show that the applicant was part of the planning or execution of the offence.

15. With respect to the alleged conversation between co-accused Umesh and Kaka Raut where the phrase "work done" is used, it is submitted that even this conversation does not refer to the applicant by name. Furthermore, the forensic report shows that the voice sample of the applicant does not match with the voice in the said audio recording. There are no phone calls between the applicant and the main assailants either before or after the incident.

16. In support of her submissions, learned Advocate for the applicant placed reliance on a series of judgments laying down principles regarding applicability of MCOCA, delay in trial, value of extra-judicial confession, and considerations for grant of bail. These include:

Akshay Atmaram Rathod vs. State of Maharashtra (Criminal Appeal No.786 of 2022);

Ranjana Tanaji Wanve vs. State of Maharashtra (SLP (Cri.) No.12740 of 2024);

Eklash Rahim Shaikh @ Peti vs. State of Maharashtra (Criminal Bail Application No.3792 of 2022);

Dipak P. Mali vs. State of Maharashtra (Criminal Bail Application No.1905 of 2023);

Nilesh Bansilal Ghaiwal vs. State of Maharashtra (Criminal Bail Application No.29 of 2022);

Bharat Chaudhari vs. Union of India (SLP (Cri.) No.5703 of 2021);

Union of India vs. K.A. Najeeb, AIR 2021 SC 712;

Sagar Tatyaram Gorkhe & Anr. vs. State of Maharashtra (Criminal Appeal No.11 of 2017);

Zameer Ahmed Latifur Rehman Shaikh vs. State of Maharashtra (2010) 5 SCC 246;

Siddhant @ Sidharth Balu Taktode vs. State of Maharashtra (SLP (Cri.) No.12939 of 2024);

Somsay Dalasay Madvi & Anr. vs. National Investigation Agency, 2024 SCC OnLine Bom 1622;

Javed Gulam Nabi Shaikh vs. State of Maharashtra (2024) 9 SCC 813;

Mohd. Iliyas Mohamad Bilal Kapadiya vs. State of Gujarat (2022) 13 SCC 817;

Chenna Boyanna Krishna Yadav vs. State of Maharashtra & Anr., Appeal (Cri.) No.1286 of 2006; and

Pakkirisamy vs. State of Tamil Nadu, Criminal Appeal No.466 of 1996.

17. On the other hand, the learned Additional Public Prosecutor vehemently opposed the prayer for bail, submitting that there is substantial material on record to show the involvement of the applicant in the larger conspiracy to commit the murder of the deceased, Suraj Mehra @ Nepali. It was contended that the amount allegedly promised by the applicant to the assailants for executing the murder is specifically referred to in the transcript of a telephonic conversation between assailant Rahul Jadhav and one Muskan Shaikh, which has been duly recorded in the script panchnama. Moreover, in the recorded conversations involving co-accused Ramchandra Raut @ Kaka, Umesh, and Rahul Jadhav, there are multiple references to the name of the present applicant.

18. It is further pointed out that in the conversation dated 1st October 2021 between assailants Rahul and Umesh, there is a clear reference to a call received from the applicant and a statement about finishing the “work” around midnight. The CDRs reveal that as many as 84 calls were exchanged between the applicant and co-accused Ramchandra Raut from 1st July 2021 up to the date of arrest of the accused. It is also submitted that immediately after the commission of the offence, photographs of the deceased were received by co-accused Ramchandra Raut on his mobile phone from accused Umesh. One such photograph, allegedly showing co-accused Kaka and Rahul, was forwarded by the assailants, and it is contended that Kaka Raut acted as an intermediary between the applicant and the assailants in the said criminal act.

19. The prosecution has also relied upon CCTV footage of Hotel Courtyard, which shows the applicant in the company of co-accused Ramchandra Raut @ Kaka at around 1:29 a.m. on 4th October 2021 and thereafter on multiple occasions till the morning of 5th October 2021. The panchnama recording of the script of conversations between accused Rahul, Umesh, and Kaka post-incident, reveals that the assailants were openly boasting about having murdered the deceased Suraj Mehra @ Nepali. It is further stated that they even sent a disturbing photograph of the deceased with his intestine protruding from the abdomen. The FSL analysis of the voice samples of the co-accused has reportedly confirmed the voices to be theirs.

20. The prosecution contends that the gang, allegedly led by the present applicant, has been involved in as many as 34 prior criminal cases, out of which the present applicant is named in 14 cases. The prosecution emphasized that this conduct establishes a continuing criminal tendency and that the applicant is a habitual offender. It is alleged that the applicant had a long-standing enmity with the deceased and had planned the murder to assert his dominance and control over the locality. Statements of certain witnesses reveal that due to the terror created by the applicant in the Bhandup area, local residents are reluctant to come forward to file complaints against him. It is further submitted that the assailants involved in the incident are members of the applicant's gang and acted under his instructions.

21. The prosecution also placed reliance on the statement of a female friend of assailant Rahul Jadhav, who has stated that shortly after the incident, around 3:00 a.m. on 4th October 2021, Rahul confessed to her that he had killed Suraj Mehra @ Nepali and even sent her a video clip of the scuffle between the deceased and the accused persons on her mobile phone.

22. On the basis of the cumulative material on record, including the telephonic conversations, CDR analysis, CCTV footage, prior criminal history of the applicant, and statements of witnesses, the prosecution submitted that there is sufficient prima facie evidence to indicate that the applicant was not only a conspirator but played a key role in orchestrating the entire offence through his gang members. The learned APP argued that the material collected by the investigating agency reveals the applicant's deep-rooted criminal background and his active participation in the offence.

23. In light of the above, the learned APP submitted that a prima facie case is made out against the applicant for offences under the Indian Penal Code, the Arms Act, and more significantly, under the MCOCA. It is contended that the embargo under Section 21(4) of MCOCA is attracted in the present case, in view of the applicant’s previous antecedents, the seriousness of the offence, and the likelihood of him indulging in similar acts if released on bail. She therefore prayed for rejection of the bail application.

24. I have carefully considered the rival submissions advanced by the learned counsel for the applicant and the learned Additional Public Prosecutor. I have also minutely examined the material placed on record, including the case diary, charge-sheets, transcripts of intercepted conversations, CDRs, CCTV footage, and the statements of relevant witnesses relied upon by both sides.

25. Upon perusal of the entire material on record, it clearly emerges that there exists prima facie material indicating that the present applicant is not a mere bystander or a passive associate, but an active member of a well-structured and ongoing criminal syndicate. The records reveal that the applicant has multiple criminal antecedents to his discredit, involving serious offences punishable under the Indian Penal Code, Arms Act, and the MCOCA. It is also pertinent to note that the prosecution has placed on record documentary evidence to show that as many as 13 criminal cases have been previously registered against the applicant, and the gang in question has been allegedly involved in over 34 criminal offences, demonstrating a pattern of continuing unlawful activity.

26. The prosecution has placed strong reliance on the CCTV footage of Hotel Courtyard, which prima facie shows the presence of the applicant along with co-accused Ramchandra Raut @ Kaka at around 1:29 a.m. on 4th October 2021, i.e., barely an hour before the brutal murder of the deceased. The said footage further records their continuous presence at the same location on multiple occasions till the morning of 5th October 2021. The timing of the applicant's presence with a key conspirator just before and after the commission of the offence is highly incriminating and raises a presumption of active involvement, especially when such presence is not explained in any innocent manner.

27. Further, the panchnama of the script transcripts prepared by the investigating agency reveals post-incident conversations between accused Rahul Jadhav, Umesh, and Kaka Raut, wherein they are found boasting about having killed the deceased Suraj Mehra @ Nepali. These conversations are not vague or general in nature but contain specific references to the act of murder, the use of weapons, and the manner in which the deceased was assaulted. It is particularly disturbing that the accused allegedly shared a photograph of the deceased, showing grievous injuries with his intestines protruding, immediately after the incident, which indicates lack of remorse and a sense of impunity.

28. The Forensic Science Laboratory (FSL) report confirming that the voices in the recordings match those of the co-accused further strengthens the authenticity of these conversations and removes any doubt about their genuineness. While the applicant's voice may not directly feature in these recordings, the linking chain of circumstances. including his physical proximity, telephonic exchanges, and continued association with the co-accused, cannot be ignored.

29. The CDRs placed on record by the Investigating Officer disclose that there was frequent, repeated, and regular telephonic communication between the applicant and co-accused Ramchandra Raut @ Kaka, especially during the crucial period immediately before and after the incident. The pattern, volume, and timing of these calls are highly significant. They point towards a continuous line of contact which, in the context of the present allegations, cannot be treated as a mere coincidence or casual interaction.

30. When such telephonic communications are read in the backdrop of the CCTV footage showing the applicant's physical presence with the main conspirator, and the content of the script panchnamas and recorded conversations of the assailants, it leads to only one prima facie conclusion, that the applicant was not only aware of the conspiracy but had an active, direct, and controlling role in the orchestration and execution of the crime.

31. Such sustained association, both physically and through telecommunication, before and after the commission of offence, is strongly suggestive of conscious participation, and cannot be brushed aside as mere social or friendly interaction. The applicant's presence at key locations and times, his communication with the intermediaries, and the conduct of the assailants all indicate a well-planned and jointly executed criminal conspiracy, in which the applicant had a central role.

32. In view of the above material and the gravity of the allegations, this Court finds that the applicant's involvement is not merely incidental or peripheral, but integral and connected to the planning and execution of the offence in question.

33. At this stage, the Court is not required to assess the veracity of the evidence in the manner of a full-fledged trial, but only to ascertain whether there exists material which, if unrebutted, would justify the framing of charges. In the present case, the material on record indicates deep-seated involvement of the applicant in the alleged criminal conspiracy, and not merely a casual or indirect association.

34. It is no doubt a well-settled principle of criminal jurisprudence that the statement of a co-accused, in absence of corroboration, cannot be the sole basis for convicting an accused person. However, in the present case, this Court is not concerned with the question of conviction but is required to assess whether there exists prima facie material sufficient to deny bail, especially in light of the provisions of the MCOCA.

35. Further, the script panchnamas drawn on the basis of recorded conversations between the co-accused show detailed discussions relating to the planning, execution, and aftermath of the murder of Suraj Mehra @ Nepali. The voice recordings, which have been forensically confirmed to belong to the co-accused, capture the accused boasting about the killing, narrating specific details of the attack, and even referring to photographs and videos of the deceased taken immediately after the incident.

36. Moreover, the post-offence conduct of the assailants, such as immediate transmission of the deceased's photograph, showing grievous injuries and the circulation of such media among close associates, further strengthens the prosecution's theory that this was not a spontaneous or isolated act, but a well-orchestrated crime, planned and executed with full knowledge and support of the applicant.

37. The CDRs placed on record by the Investigating Officer reveal a consistent and significant pattern of communication between the present applicant and co-accused Ramchandra Raut @ Kaka. These records show that during the critical period, particularly in the days immediately before and after the incident of murder dated 4th October 2021, there was frequent exchange of calls between the two, often late at night or during odd hours. The volume, timing, and continuity of these calls raise serious suspicion and cannot be treated as routine or casual interaction.

38. When these call records are viewed in conjunction with other pieces of evidence, such as the CCTV footage showing the applicant with co-accused Kaka Raut shortly before and after the incident, and the intercepted conversations among the assailants, a clear pattern emerges, suggesting that the applicant was not a passive bystander but was maintaining constant liaison with the co-conspirators during the planning and execution stages of the crime.

39. Further, the CDRs also find corroboration in other evidence, such as the transcripts of conversations that suggest discussion of the "work" to be completed, and the CCTV footage from Hotel Courtyard, where the applicant is seen in the company of Kaka Raut at around 1:29 a.m., i.e., barely an hour before the attack.

40. The combination of these factors leads to a prima facie inference that the applicant was actively coordinating, monitoring, or possibly even directing the commission of the offence from behind the scenes. In such circumstances, the frequent communication is not merely an innocuous exchange of calls, but forms part of the larger chain of events pointing to the applicant's complicity in the conspiracy.

41. Therefore, the CDRs serve as a crucial link in the evidentiary chain, supporting the prosecution's case at this stage, and substantially weakening the applicant's plea of non-involvement. The material, thus, strongly indicates the applicant's active role in the orchestration of the crime, thereby disentitling him from the grant of bail at this stage.

42. One of the principal arguments advanced on behalf of the applicant is that the invocation of MCOCA in the present case is legally unsustainable in view of the fact that there are not more than one charge-sheet filed against the applicant individually within the preceding ten years. It is urged that such a requirement is essential to meet the definition of "continuing unlawful activity" under Section 2(1)(d) of the MCOCA, and in absence thereof, the invocation of the Act itself is rendered illegal.

43. This submission, however, cannot be accepted in light of the settled position of law laid down by the Supreme Court. In *Zakir Abdul Mirajkar v. State of Maharashtra*, (2023) 20 SCC 408, the Supreme Court has authoritatively held that the condition of more than one charge-sheet being filed within ten years pertains to the organised crime syndicate as a whole, and not to each individual accused. The Court clarified in paragraph 87 as under:

> "It is settled law that more than one charge-sheet is required to be filed in respect of the organised crime syndicate and not in respect of each person who is alleged to be a member of such a syndicate."

44. The Supreme Court, while affirming the view taken in *Govind Sakharam Ubhe v. State of Maharashtra*, 2009 SCC OnLine Bom 770, reiterated that the nexus or link of the individual with the organised crime syndicate is the key element to attract the provisions of MCOCA. The Court categorically held that even if the individual is involved in only one offence, he may be proceeded against under MCOCA, provided that the offence is committed as a part of the unlawful activity of the organised crime syndicate.

45. In the present case, the prosecution has placed on record sufficient material to show that the organised crime syndicate in question has been charge-sheeted in more than one case within the preceding ten years. The applicant has been shown to have a deep and continuous association with the syndicate, as reflected from the 14 prior cases involving the applicant, his telephonic communication with co-accused Kaka Raut, and the CCTV footage and transcripts suggesting active coordination. These materials establish a prima facie link between the applicant and the syndicate, thereby satisfying the legal requirements under Sections 2(1)(d) and 2(1)(e) of MCOCA.

46. Therefore, the argument raised by the applicant that the absence of two charge-sheets against him personally vitiates the applicability of MCOCA is not legally tenable. Once the prosecution demonstrates more than one charge-sheet against the syndicate and a nexus of the applicant with the said syndicate, the threshold under MCOCA stands satisfied.

47. The submission advanced on behalf of the applicant questioning the validity of invocation of MCOCA on the ground of delay in obtaining prior approval under Section 23(1)(a) and sanction under Section 23(2) of the Act, cannot be accepted at this stage. It is well-settled that while considering an application for bail under Section 439 of the Code of Criminal Procedure, the scope of inquiry by this Court is limited to examining whether prima facie material exists to show the commission of organised crime and the applicant's nexus with such unlawful activity. At this stage, the Court is not expected to exercise judicial review over the administrative or procedural correctness of the sanctioning process under MCOCA, nor is it required to enter into a detailed inquiry into the legality or sufficiency of the approval and sanction. The issue of alleged delay or procedural irregularity in granting sanction is a matter that may be raised and tested during trial or in appropriate proceedings before the competent forum, but it cannot be made the sole basis to grant bail when there is other material on record which prima facie discloses the applicant's involvement in the organised crime syndicate and the offence in question. Therefore, this objection raised by the applicant is found to be premature and outside the limited scope of bail jurisdiction under Section 439 CrPC read with Section 21(4) of MCOCA.

48. In light of the settled legal position and the material placed on record, this Court is satisfied that the invocation of MCOCA against the applicant is prima facie valid and does not suffer from any legal infirmity.

49. The learned Advocate for the applicant has placed reliance on the judgment of the Supreme Court in the case of *Union of India v. K.A. Najeeb* [AIR 2021 SC 712], to contend that in cases of prolonged incarceration and delay in trial, the accused may be released on bail despite the rigours of special laws. However, in the opinion of this Court, the said judgment is clearly distinguishable on facts and does not support the case of the present applicant.

50. In *K.A. Najeeb*, the Supreme Court had granted bail primarily on the ground that the accused had already undergone a substantial period of custody and that the trial was unlikely to conclude in the near future. More importantly, in that case, the accused had no prior criminal antecedents and there was no apprehension of tampering with evidence, threatening of witnesses, or commission of similar offences, if released on bail.

51. In contrast, in the present case, the material on record clearly reflects that the applicant is a habitual offender with a long-standing criminal background. As per the prosecution, the applicant is involved in as many as 13 prior cases, many of which pertain to serious and grave offences under the Indian Penal Code, Arms Act, and also the MCOCA. The charge-sheet further indicates that the present offence is not an isolated act, but one committed as part of a larger pattern of organised criminal activity, which falls squarely within the definition of "continuing unlawful activity" under Section 2(1)(d) of MCOCA.

52. Furthermore, this Court cannot overlook the reasonable apprehension expressed by the prosecution that if the applicant is enlarged on bail, he may again indulge in similar unlawful acts and may influence witnesses or tamper with evidence, particularly in view of the fact that several witnesses have reportedly expressed fear of coming forward due to the influence and terror allegedly wielded by the applicant in the locality.

53. Therefore, the equities which weighed with the Supreme Court in K.A. Najeeb's case, such as clean antecedents, long incarceration, and low possibility of threat to the trial process, do not exist in the present matter. In fact, the facts herein point to the opposite conclusion, namely, that the applicant's release would pose a serious threat to the fair conduct of trial and public order, and may embolden the accused to engage in further organised crime.

54. Thus, this Court finds that the reliance placed on *K.A. Najeeb* and similar judgments by the applicant is misplaced and inapplicable to the facts of the present case.

55. This Court also finds that the statutory bar contained under Section 21(4) of the MCOCA is clearly attracted in the present case. As per the material placed on record, the applicant has been previously charged in more than one case involving allegations of organised crime, and is stated to be part of a gang involved in a series of unlawful activities. The records further reveal that the present applicant is facing 14 prior criminal cases, several of which involve serious and violent offences, including those under MCOCA.

56. As per the definition under Section 2(1)(e) read with Section 2(1)(d) of MCOCA, "organised crime" includes any continuing unlawful activity by an individual, either singly or jointly, as a member of an organised crime syndicate. The expression "continuing unlawful activity" includes criminal acts committed over a period of time, which are punishable with imprisonment of three years or more, and are committed in pursuance of the objectives of a crime syndicate.

57. In the present case, the prosecution has placed on record sufficient material, which prima facie satisfies these requirements. The brutal nature of the alleged offence, the manner in which it was planned and executed, the involvement of multiple co-accused working in coordination, the use of deadly weapons, the role of intermediaries such as co-accused Kaka Raut, and the immediate sharing of photos and videos of the deceased, all point towards a well-organised and premeditated act, which falls within the scope of "organised crime" as contemplated under the Act.

58. Section 21(4) of MCOCA creates a presumption against the grant of bail, unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty and is not likely to commit any offence while on bail. Such a twin condition places a higher threshold for the grant of bail compared to ordinary cases under the Code of Criminal Procedure.

59. In the facts of the present case, the Court is unable to arrive at a conclusion that the applicant is not guilty of the offence alleged. On the contrary, the evidence in the form of CDRs, CCTV footage, intercepted conversations, witness statements, and criminal antecedents, all point to the applicant's direct involvement in the conspiracy and establish his position as an active member of the organised crime syndicate.

60. Moreover, considering the serious nature of the charges and the applicant's past criminal record, there is a grave and real apprehension that if the applicant is released on bail, he may tamper with the evidence, influence or threaten prosecution witnesses, or may again indulge in similar criminal activity, thereby frustrating the fair conduct of the trial.

61. Therefore, this Court is of the considered opinion that the rigours of Section 21(4) of MCOCA are squarely applicable, and the applicant is not entitled to the benefit of bail under the special statute.

62. In view of the discussion made hereinabove, and having regard to the seriousness of the allegations, the material collected during investigation, the criminal antecedents of the applicant, and the bar contained in Section 21(4) of the MCOCA, this Court is of the considered view that the present applicant does not deserve to be released on bail at this stage.

63. The prosecution has placed sufficient prima facie material to indicate the applicant's involvement in the commission of organised crime, and this Court is not satisfied that there are reasonable grounds for believing that the applicant is not guilty of the offence. Furthermore, considering the past conduct of the applicant, there is a real and grave apprehension that if released on bail, he may tamper with evidence, influence witnesses, or indulge in similar criminal activity, thereby defeating the ends of justice.

64. Hence, the application stands rejected.

65. It is made clear that the observations made in this order are prima facie in nature and confined to the consideration of the bail application only. The Trial Court shall not be influenced by any of these observations while deciding the matter on merits.

(AMIT BORKAR, J.)