

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4662 OF 2024**

Gopal Ingale s/o. Shrikrishna Ingale	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

**ALONGWITH
BAIL APPLICATION NO. 5006 OF 2024**

Pramod Abhiman Shinde	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

**WITH
BAIL APPLICATION NO. 5121 OF 2024**

Rajani Dattatray Deshmukh	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Mithilesh Mishra, i/b. Mr. Agastya Desai for applicant in BA/4662/2024.

Mr. Vivek Arote a/w. Mr. Akshay Dingale for applicant in BA/5006/2024.

Mr. Prashant Pandey a/w. Mr. Dinesh Jadhware, Ms. Riddhima Mangaonkar, Mr. Pramod Sharma, Mr. Rahul Sinkar and Mr. Krishna Joshi, i/b. W3 Legal LLP for applicant in BA/5121/2024.

Mr. Mahesh Mule, Special PP, a/w. Mr. P. P. Deokar, APP, Mr. A. A. Naik, APP and Ms. Nidhi Narwekar for respondent-State in all applications.

Mr. Neelam Pawar, API, Central Unit, Crime Branch, Navi Mumbai.

**CORAM : MANISH PITALE, J.
DATE : 10th FEBRUARY, 2025**

P.C. :

. Heard Mr. Mishra, Mr. Arote and Mr. Pandey, learned counsel for the applicants and Mr. Mule, learned Special Public Prosecutor

(SPP) for respondent – State.

2. The applicants are seeking bail, as they were arrested on various dates in the years 2022 and 2023, in connection with FIR No. 0490 of 2019 dated 14.11.2019, registered at Police Station Nerul, Navi Mumbai, initially for offences under Sections 364 read with Section 34 the Indian Penal Code, 1860 (IPC). In the present case, investigation was conducted and charge-sheets were filed, whereupon further offences were added, including offences under Sections 302 and 201 of the IPC, as also the provisions of the Maharashtra Control of Organized Crime Act, 1999 (MCOC Act).

3. The investigating authority was constrained to file a number of supplementary charge-sheets, as the accused persons were apprehended over a period of time upto the year 2023, when the gang leader Vikram Deshmukh @ Vicky was arrested. The role of the applicants came to the fore in one of the supplementary charge-sheets, when their association with the gang was noticed.

4. The learned counsel for applicants in these applications submitted that this Court may consider granting bail to the applicants by invoking the principle of parity, as co-accused Vikrant Jaywant Bhoir was granted bail on 09.10.2024 in Bail Application No.2613 of 2023.

5. It was submitted that although one of the factors recorded by this Court in favour of Vikrant Jaywant Bhoir i.e. his absence from India, when the alleged offence was committed, is not applicable to the assertions made by the applicants before this Court, the other factors taken into consideration while granting bail to the said co-accused person, are not only relevant, but the said factors also inure

to the benefit of the applicants herein.

6. The learned counsel for the applicants referred to the material in the charge-sheets, indicating their respective roles and it was submitted that even if such material is taken into consideration, the worst case scenario against the applicants would be that after they were arrested in the year 2022 and 2023, the investigating authority came up with material, to demonstrate that they had allegedly harboured and assisted the main co-accused person i.e. the gang leader (accused No.5) Vikram Deshmukh @ Vicky. It is submitted that the entire material is based on confessional statements given by the co-accused persons. It is submitted that even if the confessional statements under Section 18 of the MCOC Act, would be admissible during the course of trial, the contents thereof do not make out a *prima facie* case against the applicants with regard to the incident in the present case, which is said to have occurred on 14.11.2019. It is submitted that the brutality of the assault on the victim in the present case, ought not to be the basis to hold against the applicants, for the reason that the roles attributed to the applicants would be similar/identical to the role attributed to the co-accused Vikrant Jaywant Bhoir, who has been granted bail by this Court. It is submitted that even if the contents of the reply affidavits filed in these applications, are to be taken into account, there is hardly any material against the applicants. The criminal cases registered against the applicants are all subsequent to the incident of the year 2019 in the present case. In other words, it is emphasized that there are no “antecedents” of the applicants and at worst, the incriminating material against the applicants would be the criminal cases registered subsequent to the incident in question and crucially, of the year 2022/2023, when they were arrested.

7. The learned counsel appearing for Rajani Dattatray Deshmukh (applicant in Bail Application No.5121 of 2024), further submitted that the said applicant is a 65-year old woman and although, she happens to be the mother of the alleged main co-accused person i.e. the gang leader (accused No.5) Vikram Deshmukh @ Vicky, the material on record does not justify her further incarceration. Reference is also made to the fact that she was arrested much after sunset and the documents on record show that the sanction for such arrest was obtained from the Magistrate when provisions of MCOC Act were already invoked in the present case. This ground was cited as an additional reason for supporting the bail application of the said applicant.

8. On the other hand, the learned SPP vehemently opposed the present applications. He submitted that all the applicants very well knew the nefarious activities of the main co-accused person i.e. the gang leader (accused No.5) Vikram Deshmukh @ Vicky and yet, they not only harboured him and his associates, but they also actively assisted him in avoiding arrest, thereby committing offence under the MCOC Act. It is submitted that since harbouring is one of the specific offences with which the investigating authority is charging the applicants, this Court may not accept the contentions raised on their behalf, on the ground that their direct involvement in the incident in question in the present case, is not indicated by the material on record. It is submitted that harbouring of such criminals in itself being a specific crime in the MCOC Act, for which there is ample material on record, no indulgence may be shown to the applicants. It was submitted that, but for the action of the applicants before this Court, the main co-accused person i.e. the gang leader (accused

No.5) Vikram Deshmukh @ Vicky would have been arrested much earlier. Due to the delay in his arrest, the said co-accused person ended up committing further heinous crimes and this aspect also needs to be taken into consideration by this Court. In order to support the said contention, specific reference is made to a number of confessional statements of the co-accused persons and those of the applicants and there is ample *prima facie* material to make out a case against the applicants. Reliance was placed on the judgment of this Court in the case of *Rajendra Bhau Patole vs. The State of Maharashtra and another* (2022 SCC OnLine Bom 696).

9. This Court has considered the rival submissions. While granting bail to co-accused No.12 Vikrant Jaywant Bhoir by allowing Bail Application No.2613 of 2023, this Court observed as follows:

- “9. A perusal of the relevant portion of the supplementary charge-sheet and the above quoted portion of the sanction order, indicates that, according to the investigating authority, provisions of the MCOC Act, have been invoked against the applicant even with regard to the subject FIR on the basis that the applicant did not divulge the informant available with him, as regards involvement of the gang leader and other members of the gang, in respect of the said offence, leading to registration of the subject FIR and that he actively assisted them in committing further offences.
10. The relevant portion of the confessional statement of the applicant and that of a co-accused persons, reveals the fact that after returning to India, the applicant had worked as a driver of a co-accused person Dhanesh Thorat, who is also alleged to be a member of the said gang.
11. This Court has carefully perused the material on record, particularly the material on which the investigating authority has relied to show the

involvement of the applicant with the offence, leading to registration of the subject FIR. The aforesaid material, at worst, indicates that after arriving in India on 18.11.2019, the applicant chose to associate with the members of the gang. His role was that of a driver of one of the members of the gang. It is alleged that he was actively involved in offences committed by the members of the said gang during the period that they were absconding in the context of the subject FIR. At worst, it could be alleged that the applicant had knowledge about the activities of the gang and its gang leader and perhaps their direct involvement in the offence, which led to registration of the subject FIR. But, such material in itself falls short of showing the involvement of the applicant in the offence that led to registration of the subject FIR. Prima facie, the involvement of the applicant could be as regards the activities undertaken by the gang after the arrival of the applicant in India on 18.11.2019. Even the SPP could not seriously dispute the fact that the applicant was not in India when the offences were committed, which led to registration of the subject FIR.

12. Therefore, this Court finds substance in the contention raised on behalf of the applicant that he could not be held responsible and roped in with regard to the offences that led to registration of the subject FIR, when he was admittedly not even present in India. His alleged role in “harboring the gang leader and members of the gang” prima facie can be said to be far-fetched, for the reason that even according to the investigating authority, the applicant was working as a driver of one of the co-accused persons and alleged member of the gang. The applicant has indeed made out a prima facie case in his favour.”

10. The aforesaid observations will have to be kept in mind, while dealing with the present applications, the reason being that in the charge-sheet itself, the investigating authority has indicated as to what, according to the said authority, could be said to be the role of

the applicants in the present case. Having perused the contents thereof, this Court finds resemblance to the incriminating material upon which reliance was placed, while allowing the bail application of accused No.12 Vikrant Jaywant Bhoir.

11. As against the applicants herein also, the major role attributed to them is that they were harbouring the gang leader Vikram Deshmukh @ Vicky and the members of the gang, by indulging in various activities.

12. As regards accused No.6 Gopal Ingale (applicant in Bail Application No.4662 of 2024), the respondent-State has specifically stated that he alongwith co-accused No.7 and others, intentionally gave shelter and harboured the gang leader Vikram Deshmukh @ Vicky and those actually involved in the heinous offence. It is to be noted that the aforesaid applicant No.6 Gopal Ingale was arraigned as an accused and arrested on 24.08.2022. It is relevant to note that the alleged incident in question, leading to registration of FIR and initiation of investigation, occurred on 14.11.2019, thereby showing that the applicant stood arraigned as an accused, when supplementary charge-sheets were filed and after about 3 years of the alleged date of incident. It is also to be noted that in the reply affidavit filed on behalf of the respondent-State, as regards the said accused No.6 Gopal Ingale, it is claimed that he has several “criminal antecedents”. A perusal of the chart given in the reply affidavit shows that there are three other criminal cases registered against the said applicant, but crucially, all of them pertain to the year 2022 and apart from the said three cases, reference is also made to the present case, which is of the year 2019. Thus, there are criminal cases registered against the said applicant “subsequent” to the present case

and in that sense, it would not be appropriate to claim that the applicant has had criminal antecedents, when the present case was registered.

13. The entire thrust of the reply affidavit is on the manner in which the said applicant accused No.6 Gopal Ingale harboured and assisted the main accused i.e. the gang leader Vikram Deshmukh @ Vicky. Having perused the relevant material to which reference is made in the reply affidavit, this Court finds that the worst case scenario for the said applicant would be identical to the role attributed to the co-accused No.12 Vikrant Jaywant Bhoir, who is already granted bail by this Court. There is nothing to show that the said order of this Court has been either challenged or set aside and therefore, the principle of parity can certainly be invoked by the aforesaid applicant.

14. Apart from this, this Court has considered the confessional statements of the applicant as well as the co-accused persons. The insistence of the learned APP that such statements do indicate the involvement of the applicants insofar as the present incident is concerned, cannot be accepted. Therefore, the said applicant deserves to be granted relief.

15. As regards accused No.16 Pravin Abhiman Shinde (applicant in Bail Application No.5006 of 2024), the learned counsel for the applicant has relied upon the material on record to contend that there is nothing to indicate involvement of the said applicant in the offences that led to registration of FIR and initiation of investigation in the present case. This Court has also considered the reply affidavit tendered by the learned SPP as regards the said applicant, including

reference to the confessional statements of the co-accused persons. The role attributed to the said applicant appears to be his act of having assisted the mother and sister of the main accused i.e. gang leader (accused No.5) Vikram Deshmukh @ Vicky. The mother of the said main accused person is also an applicant in this bunch of applications. The allegation against the said accused No.16 Pramod Abhiman Shinde, appears to be that he arranged for accommodation for the two ladies i.e. the mother and sister of the main accused person, he drove them around and he also actively participated in arranging for lawyers and legal assistance for them. A specific allegation is made that while arranging for legal assistance, the said applicant indulged in falsehood and he gave a wrong impression to the middle man. It is the middle man on whose statement the learned SPP relied, who was an Assistant Police Inspector (API). It is surprising that the said police personnel is not arraigned as an accused, while the flow of the allegation appears to be that he was the person who claimed that about ₹ 15 lakhs would be required for legal assistance. The applicant accused No.16 Pramod Abhiman Shinde allegedly took the money from the mother and sister of the main accused person. But, such legal assistance was not eventually arranged. These are the nature of allegations focused upon harbouring and assisting the main accused person.

16. As noted in the order passed in favour of Vikrant Jaywant Bhoir, the material on which the investigating authority has placed much reliance in this regard, appears to be far-fetched. It also to be noted that in respect of the said accused person Pramod Abhiman Shinde, the chart of criminal antecedents shows that he has two other criminal cases pending against him, both being after the instant case. One case is of the year 2021 pertaining to minor offence under

Section 324 of the IPC and other case is of the year 2023, pertaining to offence under the Narcotic Drugs and Psychotropic Substances Act, 1985. In none of them are there any allegations against the said applicant accused No.16 Pramod Abhiman Shinde with regard to involvement with the main accused i.e. gang leader (accused No.5) Vikram Deshmukh @ Vicky. In other words, there are no criminal “antecedents” as pointed out by the learned SPP and therefore, this Court is inclined to extend the benefit granted to accused No.12 Vikrant Jaywant Bhoir.

17. The accused No.14 Rajani Dattatray Deshmukh (applicant in Bail Application No.5121 of 2024) is the mother of the alleged main accused i.e. gang leader (accused No.5) Vikram Deshmukh @ Vicky. Apart from the allegations regarding the manner in which the said accused person “harboured” the main accused person, the allegations extend to the manner in which she and her daughter, in association with co-accused No.16 Pramod Abhiman Shinde, undertook actions alongwith the said API for arranging legal assistance. These actions can hardly be showing any incriminating material, insofar as the offence in the present case is concerned. Additional ground available to the said applicant is the fact that she is a 65-year old woman and the main allegation regarding her association with the gang leader, appears to be that being his mother, she was always aware about the nefarious activities of her son and yet, she harboured and sheltered him for the period between 2019 and 2022, until the main accused person was eventually arrested. The chart of criminal antecedents with regard to the said applicant Rajani Dattatray Deshmukh also shows that the other three criminal cases registered against her, are of the year 2022, around the time when she was arrested and there is not a single case registered against her prior to the year 2019, which

is the year when the incident took place, leading to registration of FIR in the present case and initiation of investigation. The nature of allegations levelled against the said applicant based on confessional statements made by the accused persons, also indicate the extent of criminality of harbouring, levelled against similarly situated accused No.12 Vikrant Jaywant Bhoir, who has been already granted bail by this Court. It is to be noted that being a woman and a 65-year old senior citizen, the application of the said applicant accused No.14 Rajani Dattatray Deshmuch, can be said to be on a higher pedestal as compared to the other applicants, whose applications are also being considered.

18. As on today, draft charges have been filed on behalf of the prosecution and even charges are yet to be framed. It is indicated by the learned SPP that delay in proceedings can be attributable to the accused persons as various applications are being repeatedly filed for bail and discharge. Therefore, it is submitted that this Court may not grant any benefit to the applicants herein on the basis that although the FIR was registered in the year 2019, charges are yet to be framed.

19. This Court is of the opinion that the applicants herein deserve relief on the ground of parity with co-accused No.12 Vikrant Jaywant Bhoir. It is also to be noted that none of the applicants are shown to have been arraigned as accused in any criminal case, prior to the year 2019 and this is a factor specifically taken note of by this Court. It is also not a coincidence that criminal cases against all the three applicants appear to be in the year 2022 or thereabout, i.e. the time when all of them were arrested with regard to the present case. This Court is convinced that the applicants deserve to be enlarged on bail.

20. Accordingly, the applications are allowed in the following terms:

- (i) The applicants Gopal Ingale, s/o. Shrikrishna Ingale, Pramod Abhiman Shinde and Rajani Dattatray Deshmukh, shall be released on bail in connection with FIR No. 0490 of 2019 dated 14.11.2019, registered at Police Station Nerul, Navi Mumbai, on furnishing PR Bond of ₹ 50,000/- each and one or two sureties each in the like amount to the satisfaction of the trial Court.
- (ii) The applicants shall not enter the Commissionerate of Navi Mumbai, during the pendency of the trial.
- (iii) Upon being released on bail, the applicants shall immediately, and in any case within a week, furnish the details of their active mobile numbers and residential addresses to the trial Court and update about the same, if there is any change.
- (iv) Upon being released on bail, within one week, the applicants shall surrender their passports, if any, before the trial Court.
- (v) The applicants shall co-operate with the trial Court in completing the proceedings expeditiously and attend the proceedings before the trial Court on each and every date, unless specifically exempted, for the reasons to be recorded in writing.
- (vi) The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not undertake any action that may influence the informant, witnesses and other persons concerned with the case.

21. The applicants shall be liable to face proceedings for cancellation of bail, in the event any of the aforesaid conditions is violated.

22. It is also clarified that the observations made in this order are limited to the disposal of the present bail applications and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

23. The grant of bail to the applicants herein would not mean that they show lack of co-operation to the concerned Court, where the trial would commence. The prosecution as well as the accused persons, including the applicants herein, are directed to ensure complete co-operation with the concerned Court for expeditious disposal of the trial.

24. All the three applications are disposed of.

(MANISH PITALE, J)

Priya Kambli