

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

Criminal Bail Application No.5337 of 2024

Kiran Gurunath Rathod

Age 26 years, Occupation : Nil,

R/at – Near Rode Hospital,

Dighi, Dist. Pune.

... Applicant

Versus

The State of Maharashtra

Through Chakan Police Station,

In C.R. No.1866 of 2022.

...Respondent

Mr Shailesh Chavan a/w Mr Sachin Arude, Mr Sachin Pawar,
Mr Hrishikesh Avhad, for the Applicant.

Mr S V Walve, APP, for Respondent/State.

PSI Dattatraya M Sukale, Chakan Police Station, Pimpri-
Chinchwad, Pune.

Coram: R.N. Laddha, J.

Date: 25 November 2025.

P.C.:

By this application, the applicant seeks bail in connection with CR No.1866 of 2022, registered at Chakan Police Station, Pune, for offences punishable under Sections 395, 365, 341, 323, 506 of the Indian Penal Code (IPC); under Sections 37(1) read with 135 of the Maharashtra Police Act, 1951; Sections 4, 25 of the Arms Act, and 3(1)(ii) and 3(4) of the Maharashtra Control of Organised Crime Act (MCOC).

2. According to the prosecution, the informant, who earns his livelihood as a truck driver, was on 7 December 2022 engaged in transporting approximately 32 metric tonnes of iron angles in a truck bearing registration No.MH-40-BN-0081 from Alandi. At the relevant time, when he reached in the vicinity of Hotel Aaisaheb on the Chakan-Shikharapur road, within the territorial limits of village Shevgaon, his vehicle was intercepted by a car occupied by six unknown individuals. It is alleged that the said persons wrongfully restrained the informant, assaulted him, and forcibly relieved him of cash amounting to Rs.1600/- alongwith his mobile handset. Thereafter, they compelled him to accompany them in their car for a distance of about 3-4 kilometers, where he was abandoned in an open area. The assailants then absconded with the truck along with the iron angles loaded therein, valued at around 9,60,000/-.

3. The learned counsel appearing on behalf of the applicant, while asserting the applicant's innocence, submits that the applicant has been falsely implicated in the alleged offence. It is argued that the FIR was initially lodged against unknown persons, and at no stage was a Test Identification Parade conducted to establish the applicant's identity or involvement. Although the FIR came to be registered on 7 December 2022,

the applicant, along with the co-accused, was apprehended only on 29 August 2023. The confessional statements of co-accused persons, namely, Sumit Mudaliyar and Aakash Shinde, were recorded subsequent to the applicant's arrest and not earlier. It is further submitted that the said co-accused, whose confessional statements allegedly implicate the applicant, have already been enlarged on bail.

4. The learned counsel contends that a total of seven persons are alleged to have been involved in the commission of the present offence, and six of them have already been granted bail. It is urged that the applicant's criminal antecedents, by themselves, cannot constitute the sole basis for declining bail, particularly in the absence of substantive material establishing his role. It is pointed out that the statement of the purported witness who was allegedly present with the informant at the time of the incident came to be recorded after an unexplained delay of more than one year, thereby casting serious doubt on its reliability.

5. The learned counsel emphasises that there are no eyewitnesses to the incident, and no specific overt act has been attributed to the applicant in the prosecution case. The applicant has been languishing in jail since 29 August 2023. It is

further submitted that the applicant is willing to comply with any conditions that may be imposed by this Court, including an undertaking to refrain from entering the territorial jurisdiction of Pune District until the conclusion of the trial.

6. On the other hand, the learned Additional Public Prosecutor appearing for the respondent/State opposes the present application for bail. He submits that the confessional statements of the co-accused specifically implicate the applicant in the commission of the alleged offence. The learned APP, however, candidly acknowledges that out of the seven accused persons, six have already been released on bail. He further points to the applicant's criminal antecedents as a factor weighing against the grant of bail.

7. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the record. The applicant is seeking bail in connection with an offence about an incident dated 7 December 2022, wherein the informant, a truck driver, was allegedly intercepted by six unknown individuals who assaulted him, robbed him of cash and a mobile phone, and absconded with the truck and its iron angle cargo valued at approximately ₹9,60,000/-. It is not in dispute that the FIR was lodged against unknown persons and

that the applicant was arrested on 29 August 2023, more than eight months after the registration of the FIR. The prosecution's case against the applicant primarily rests on the confessional statements of co-accused Sumit Mudaliyar and Aakash Shinde, which were recorded only after the applicant's arrest. Notably, these co-accused have already been enlarged on bail.

8. Furthermore, it appears from the record that the prosecution has not conducted a TIP to establish the applicant's identity or involvement in the alleged offence. In the absence of such identification, the evidentiary value of the confessional statements of co-accused, recorded post-arrest, is considerably weakened, particularly in light of the settled position of law that such statements are not substantive evidence and require corroboration.

9. It is further pertinent to note that out of the seven accused persons allegedly involved in the incident, six have already been granted bail. The principle of parity, though not absolute, is a relevant consideration, especially when no distinguishing role or overt act has been attributed to the applicant vis-à-vis the co-accused who are already on bail.

10. The prosecution has not brought on record any eyewitness

account directly implicating the applicant. The statement of the purported witness, who was allegedly present with the informant at the time of the incident, was recorded after an unexplained delay of more than one year, thereby diminishing its probative value. While the applicant is stated to have criminal antecedents, it is well settled that antecedents alone cannot be the sole ground for denial of bail in the absence of cogent material linking the accused to the present offence. The applicant has been languishing in jail since 29 August 2023. Prolonged pre-trial incarceration, in the absence of compelling reasons, militates against the fundamental right to personal liberty enshrined under Article 21 of the Constitution of India. The applicant has expressed willingness to abide by any conditions imposed by this Court, including an undertaking not to enter the territorial jurisdiction of Pune District until the conclusion of the trial.

11. In view of the foregoing circumstances, particularly the delay in arrest, absence of TIP, lack of direct evidence, parity with co-accused already on bail, and the applicant's willingness to adhere to stringent conditions, this Court is of the opinion that the applicant has made out a case for the grant of bail. Accordingly, the following order is passed.

ORDER

(i) The applicant shall be released on bail in CR No.1866 of 2022, registered at Chakan Police Station, Pune, upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall not, either personally or through any other person, attempt to tamper with prosecution evidence or issue any threats, inducements, or promises to prosecution witnesses.

(iii) The applicant shall cooperate and regularly attend the trial proceedings before the jurisdictional Court for the expeditious disposal of the case.

(iv) The applicant shall not enter the territorial jurisdiction of Pune District till the conclusion of the trial proceedings, save and except to attend the trial proceedings.

(v) The applicant shall furnish his

residential and contact details to the Inspector of the concerned Police Station and shall notify the said officer forthwith of any subsequent changes therein.

12. The application stands disposed of accordingly.

[R.N. Laddha, J.]