

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANAND
SUDHAKAR
SUDAME

WRIT PETITION NO. 3652 OF 2025

Rupesh Krishnarao Marne

.Petitioner

Versus

The State of Maharashtra & anr.

.Respondents

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Mr. Shailesh Kharat i/b. Mr. A. R. Chikate a/w. Mr. Omkar Chaudhari and Mr. Tanmay Kate, Advocates for the Petitioner
Ms. S. E. Phad, APP, for the Respondents – State
Mr. Rahul Pawar, PSI, Crime Branch, Pune present

CORAM : S. M. MODAK, J.

DATE : 14.07.2025

P. C.

1. Heard Mr. Kharat, learned Advocate for the Petitioner who is shown as an absconding Accused in the Charge-sheet filed against Co-accused persons.
2. Heard Ms. Phad, learned APP for the Respondents – State.
3. There is a challenge to the Order of issuance of proclamation passed by the learned Special Judge (MCOCA), Pune dated 22.05.2025. This was issued in the Charge-sheet filed in connection with C. R. No. 46 of 2025 registered with the Kothrud Police Station, Pune for the offences punishable under Sections 109,

118(1), 118(2), 126(2), 111(2), 111(3), 111(4), 111(6), 111(7) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “**BNSS**”) r/w. 3(1)(ii), 3(2), 3(4), 4 of the Maharashtra Control of Organised Crime Act, 1999 (for short “**MCOCA**”).

4. The contention is that the learned Special Judge has not followed the procedure and the ingredients of relevant sections of the BNSS are not followed. One more circumstance is relied upon. By way of an Application once filed for Anticipatory Bail, and that is how he has surrendered to the process of law, it cannot be considered as an absconding Accused.

5. Ms. Phad, Learned APP for the Respondents - State strongly opposed allowing the Petition for the reason that he is an absconding Accused and no audience should be given to him. There is also submission about his antecedents.

6. Mr. Kharat, learned Advocate for the Petitioner has invited my attention to the Report given by the Investigating Officer dated 22.05.2025 addressed to the Court who is seized of Anticipatory Bail Application. This report was given in pursuance to the Application filed by the Applicant thereby demanding the CCTV footage. According to Mr. Kharat, at least when this report was filed, police are fully aware about pendency of the Anticipatory Bail Application and that is why their contention that his client is absconding is untenable.

7. I am not going into grounds taken thereby challenging the issuance of proclamation. It can be challenged on the ground which

goes to the root of issue and also on the minor lapses. I am not going into either of the issues. Only I am considering the fact that he has taken recourse to the Court of law. There is also submission that Anticipatory Bail Application cannot be filed in an offence punishable under the MCOCA. I am not going into that issue. It is for the concerned Court to decide.

8. The Order of issuance of proclamation can be kept in abeyance for a limited duration. The direction can be given to the learned Special Judge who is seized of the Anticipatory Bail Application to decide the Anticipatory Bail Application on a priority basis. Hence, the Order.

O R D E R

(i) The learned Special Judge who is seized of the Anticipatory Bail Application shall make an endeavour to decide pending Anticipatory Bail Application as early as possible and also to decide pending Applications in the same on merit.

(ii) This Court has not expressed any opinion on merits of the contentions raised before this Court.

(iii) Till the time, Anticipatory Bail Application be finally decided, the proclamation issued as per the Order dated 22.05.2025 be kept in abeyance.

(iv) Both the parties are at liberty to request the Court to hear their submissions on priority basis.

(v) Once Anticipatory Bail Application is decided, the proclamation will come into force depending upon outcome of the

Petition.

(vi) Depending upon outcome of the Anticipatory Bail Application, the Petitioner is at liberty to take appropriate proceedings about the proclamation.

9. The Petition stands disposed of.

(S. M. MODAK, J.)