

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

CRIMINAL APPEAL NO.701 OF 2025

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Saurabh Balu Sasane

Age : 22 Years, Occupation : Student,
Residing at : Lane No.13, SRA Building,
Viman Nagar, Pune.

...Appellant

Versus

1. **The State of Maharashtra**

[Through Shivaji Nagar Police Station
Pune Vide C.R. No.171 of 2023].

2. **Satish Ananda Wankhede**

Age : 36 Years, Occupation : Service,
Residing at : 13, Tadiwala Road,
Near Janseva Tarun Manda, Pune.

...Respondents

Mr.Priyal G. Sarda a/w Mr.Shubham Sane i/b. Ms.Seema S. Dighe:-	Advocates for Appellant.
Mr.Ashok S. Gawai:-	APP for Respondent No.1 -State.
Ms.Pooja Dongare a/w Mr.Nilesh Kashyp and Mr.Swapnil Mote:-	Advocates for Respondent No.2 – First Informant.
Mr.Sainath Ramrao Thombre-ACP:-	Vishrambag Police Station–Pune.

CORAM : S. M. MODAK, J.

DATE : 23rd SEPTEMBER 2025

P. C. :-

1. Heard learned Advocate Shri.Sarda for the Appellant/Accused, learned APP and learned Advocate for the Respondent No.2/First Informant at great length.

2. The present Appellant is one of the Accused who is charge sheeted in an offence registered at C.R. No.171 of 2023 with Shivaji Nagar Police Station – Pune. The offences are under Sections 302, 141, 142, 143, 144, 145, 147, 148, 149, 120-B of the Indian Penal Code, 1860 (“**IPC**” henceforth), under Sections 4(25), 5(25), 5(35) of the Arms Act, 1959, under Sections 37(1),(3), 135 of the Maharashtra Police Act, 1951, under Sections 3(1)(r), 3(2)(v), 3(2)(va), 6 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“**SC & ST Act**” hereinafter) and under Sections 3(1)(i), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (“**MCOCA Act**”).

3. The charge-sheet is filed and now the case is numbered as Special (MCOCA) Case No.160 of 2024. He applied for bail before the learned Special Judge (Under MCOCA Act) & Additional Sessions Judge, Pune. However he failed as per the order dated 2nd May 2025. The reasoning is there paragraph No.10 of the said order.

4. The prosecution case in nutshell needs to be stated. It is as follows:-

(a) The FIR is lodged by one Satish Ananda Wankhede on 16th August 2023. He was one of the associates of Nitin Mohan Mhaske who is the deceased. He along with the deceased

and others had gone to see a movie at Mangala Talkies, Shivaji Nagar on 15th August 2023 at about 10.00 p.m.

- (b) They came out of the talkies and they were about to return home. When they were passing from BJP Office, 12 to 13 persons who were waiting have assaulted them with various weapons. One of them is Sagar Kolanatti who is described as a gang leader.
- (c) These assailants have assaulted him brutally and Nitin Mhaske died on the spot due to the injuries. The FIR came to be registered as mentioned above.

5. Admittedly in the FIR, this Appellant is not described as one of the assailants. It is important to note, the incident took place at midnight.

6. During investigation, the Police have collected several materials. There is consensus amongst three of them about the exact material collected during investigation against this Appellant. They can be summarized as follows:-

- (a) There is a supplementary statement of the First-Informant Satish dated 16th August 2023 wherein he has described the Accused No.5 – Vivek and Accused No.11 Vivek are the same persons. There is one more supplementary statement of Satish recorded on 29th August 2023 wherein he has given further description of the incident. He has explained about what has happened after Nitin Mhaske had fallen on the

ground after the assault. Other Accused have also beaten Nitin by various weapons and **one of them is the present Appellant**. He beaten the deceased with the help of pieces of tiles. (Mr.Sarda submitted that this statement was recorded after the arrest of his client on 22nd August 2023).

- (b) There is a memorandum panchnama dated 24th August 2023 by which the present Appellant has produced one shirt and one pant having blood stains. It was from a hut. Yet the Chemical Analyzer's report is awaited.
- (c) There is a panchnama about viewing the C.C.T.V. cameras installed at various places in the city dated 26th October 2023. The Police have viewed the cameras installed at 12 places. The prosecution claims that in those cameras, the assailants were seen moving from various two wheelers and the present Appellant is shown at Sr.No.15.
- (d) There is a supplementary statement of the First-Informant Satish dated 16th January 2024. He was called to view those footages and to state whether he can identify the assailants. He has identified the present Appellant who was a pillion rider on Aactiva two wheeler and it was driven by the co-accused Vinayak Kapade. The camera is installed at Jahangir Chowk.
- (e) There is 161 statement of the witness Pravin Bhande dated 29th August 2023. He claims that he has witnessed the assault. The assailants were 20 to 22 persons. However according to him, they have masked their faces. Except the

manner of assault, this statement does not mention the name of the Appellant as one of the assailants.

- (f) There is 161 statement of witness Akshay Honmane dated 30th August 2023 wherein he has named name of the assailants and the present Appellant is at Sr.No.20. There is allegation of assaulting the deceased by the assailants including the present Appellant.
- (g) There is 161 statement of one Sugandh Kamble dated 25th October 2023. He has also viewed the cinema in Mangala Talkies on the fateful day. After he came out, he noticed the presence of certain persons in a suspicious condition. He has dared to call the Police. He has further dared to record the incident of assault with the help of mobile.

7. In the Affidavit-in-Reply, all these materials are pleaded. Learned APP and learned Advocate for the First-Informant invited my attention to all these materials. One of them is transferring the mobile recording by witness in DVD with the help of expert and after obtaining certificate, what is seen in that DVD is not pointed out to the Court. After repeated queries, even the ACP who has affirmed the Affidavit could not throw light upon the contents of the DVD. At the time of investigation, he was not the concerned ACP.

8. It is true, as per the provisions of Section 21 of the MCOC Act, the '*twin test*' has to be satisfied. A person should not be guilty of the

offence and he is not likely to commit the offence after granting bail. The Court has to form a *prima facie* satisfaction. There is a list of offences which is part of Affidavit. In all 15 offences are registered but according to learned APP, in neither of these offences, the present Appellant is involved. There is no other material pointed out that if bail is granted, he is likely to commit the offence. **So the bar under Section 21 of the MCOCA Act will not be applicable in this case. These are my *prima facie* findings.**

9. Now coming to the materials, it is true that the offence has taken place at midnight. This is not a stage to decide whether the materials are sufficient to prove the commission of the offence and that too by the charge sheeted Accused. The Court has to see whether the material is sufficient to warrant further detention during the pendency of the trial.

10. The First-Informant has alleged that there are cases amongst the deceased on one hand and the gang leader on the other hand. As said above, the Appellant is not having previous antecedents. It is true the Appellant is seen on Activa motorcycle as a pillion rider. This is after the incident. It is true that at his instance, clothes having blood stains are seized. It is true the First-Informant has not named this Appellant

in the FIR. It is also true one of the witnesses Pravin Bhande has narrated the incident and explained that all the assailants have masked their faces. At the same time, another witness by name Akshay has named certain assailants including the present Appellant assailing the deceased with various weapons.

11. This Court can realize that there are lot of impediments for the Investigating Agency to collect the materials. One is the time of the incident. Second is the availability of the witnesses at the spot considering the midnight time. With all these efforts, the Police could collect certain materials which is part of the charge-sheet. So the issue before the Court is to assess this material for deciding this bail.

12. The trial Court while rejecting the bail has given importance to the presence of the Appellant from C.C.T.V. footage panchnama. The trial Court has given weightage to the seriousness of the offence. When this Court has considered all the materials referred above, I am inclined to grant bail. It is only for one reason. That is to say one of the witnesses – Pravin Bhande who has described the assailants with masked faces. It is not that in many cases, the assailants will commit the offence with their open identity. The material of noticing the Appellant as a pillion rider and the seizure of clothes could have been

considered if there could have been identification parade conducted during investigation. Unfortunately, it is not there. I conclude that the trial Court has not considered the materials properly. So I am inclined to grant bail subject to stringent conditions. Hence the following order is passed:-

ORDER

- (i) **The Appeal is allowed.**
- (ii) The order dated 2nd May 2025 passed by the Court of learned Special Judge (Under MCOC Act) & Additional Sessions Judge, Pune in Special (MCOC) Case No.160 of 2024 **is set aside.**
- (iii) The **Appellant – Saurabh Balu Sasane** is released on bail on furnishing personal bond and surety bond of Rs.50,000/- (Rupees Fifty Thousand).
- (iv) The Appellant is directed not to enter the limits of Pune Municipal Corporation **till the conclusion of the trial.**
- (v) The Appellant not to threaten the prosecution witnesses or allure them in any manner.
- (vi) The Appellant to furnish his alternate place of residence to the Police and to the Court.
- (vii) The Appellant is directed to give attendance to Shivaji Nagar Police Station on **first Monday of October-2025, first Monday of February-2026, and first Monday of April-2026** from 10.00 to 11.00 a.m. for a period of two (2) years. For

that purpose, he can enter the limits of Pune Municipal Corporation.

(viii) In case of breach of the conditions, liberty to apply for cancellation of bail.

13. With these observations, **the Appeal is disposed of.**

[S. M. MODAK, J.]