

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.195 OF 2025

Sohansingh Roopsingh Kharwar ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Neeraj Yadav with Ms. Deepa Punjani i/by Ms. Sunanaya Dhakkad for the applicant.

Mr. Mahalakshmi Ganapathy, APP for the respondent-State.

Mr. Kolhe, PSI and Mr. Sawant, PC, Waliv Nagar Police Station, Vasai-Virar, are present.

CORAM : AMIT BORKAR, J.

DATED : JULY 11, 2025

P.C.:

1. The present application is preferred by the applicant under the provisions of Section 439 of the Code of Criminal Procedure, 1973, seeking his enlargement on regular bail in connection with Crime Register No.0015 of 2022, registered with Waliv Nagar Police Station, Vasai-Virar, for the offences punishable under Sections 395, 397, 212 and 120B read with Section 34 of the Indian Penal Code, 1860. In addition to the aforesaid provisions, the prosecution has also invoked the stringent provisions of Sections 3(1)(ii), 3(2), and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred to as "the MCOC Act").

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2. Learned Advocate appearing for the applicant has invited this Court's attention to the order dated 2nd April 2024 passed by a Co-ordinate Bench in Bail Application No.2663 of 2023, whereby co-accused Chetan has been directed to be released on bail. It is submitted that the said co-accused Chetan had a more active and grave role in the commission of the offence, inasmuch as he was not only physically present at the scene of offence during the commission of the dacoity, but had also continued to conduct recce operations right until the incident took place. In contradistinction, it is urged that the applicant herein is alleged to have merely participated in the initial recce activity, and had thereafter disengaged himself, leaving the subsequent planning and execution in the hands of the said co-accused.

3. It is further contended that when the co-accused, having played a more prominent role in the actual execution of the offence, has been granted the benefit of bail, the applicant, whose alleged involvement is comparatively limited and peripheral, is equally entitled to be considered for bail on the ground of parity. Learned counsel further submits that although the prosecution has placed reliance upon the alleged past criminal antecedents of the applicant, it may be noted that those cases are registered in the State of Rajasthan, and not within the territorial jurisdiction of the State of Maharashtra. The applicant has been under incarceration since 9th January 2022, and as on date, has undergone custody for more than three years and six months. It is therefore urged that considering the prolonged period of pre-trial detention, coupled with the ground of parity, the applicant deserves to be released on

bail.

4. Learned Advocate for the applicant has also placed reliance on the order dated 27th June 2025 passed in Bail Application No.341 of 2025, wherein the benefit of bail was extended to an accused who was allegedly assigned a role similar to that of the present applicant. It is submitted that there exists no material distinction on facts, either in respect of the allegations or the evidentiary position, so as to deny the applicant the benefit of parity. On these grounds, prayer for grant of regular bail is urged.

5. Per contra, the learned APP vehemently opposed the present application. It is submitted that the applicant's involvement is clearly borne out from the confessional statement recorded under Section 18 of the MCOC Act, wherein he has admitted to his participation in the conspiracy and has further disclosed that he had received an amount of ₹70,000/- as his share in the proceeds of the dacoity. It is further pointed out that the applicant has four prior criminal cases to his discredit, though they are registered outside the State. The learned APP, therefore, submits that taking into account the serious nature of the offences and the applicant's antecedents, no case is made out for grant of bail at this stage, and the application deserves to be rejected.

6. I have given my anxious consideration to the rival submissions advanced on behalf of the applicant and the learned APP. I have perused the material placed on record, including the order passed by the Co-ordinate Bench in Bail Application No.2663 of 2023 dated 2nd April 2024, and the order in Bail Application

No.341 of 2025 dated 27th June 2025.

7. It is not in dispute that the co-accused Chetan, who was alleged to have played a more active role in the commission of the offence—including conducting surveillance (recce) till the final act and being present at the scene of offence—has been granted bail. The prosecution's own case, as projected, attributes a relatively limited role to the present applicant, namely, that he had conducted a preliminary recce which was subsequently taken over by the said co-accused. Thus, on a prima facie comparative analysis, the applicant's role appears to be on a lesser footing.

8. Where an accused similarly situated has been granted bail, the doctrine of parity demands that such benefit should ordinarily extend to others similarly placed, unless distinguishing features are brought on record.

9. In the present case, the prosecution has not been able to demonstrate any material distinguishing feature between the case of the present applicant and that of co-accused Chetan who has already been granted bail. The alleged recovery of ₹70,000/- is said to be based on a confessional statement under Section 18 of the MCOC Act, which, at this stage, would be a matter for trial. Further, though the applicant has criminal antecedents, the same pertain to cases in Rajasthan and there is no material placed on record to show his involvement in any organised crime syndicate operating within Maharashtra prior to this offence.

10. The applicant is in judicial custody since 9th January 2022, having undergone incarceration for over three and a half years.

There is no indication that the trial is likely to conclude in the near future. Prolonged pre-trial detention, especially in the absence of progress in trial, militates against the fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India.

11. Considering the totality of circumstances, including the ground of parity, the nature of allegations, the period of custody undergone, and the settled principles of law, I am of the considered view that the applicant deserves to be released on bail, subject to appropriate conditions.

12. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.0015 of 2022 registered with Waliv Nagar Police Station, Vasai-Virar. The applicant is charged for offences punishable under Sections 397, 397, 212, and 120-B read with Section 34 of the Indian Penal Code and also under Sections 3(1)(ii), (3), 3(4) of MCOC Act, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
 - a) The applicant shall not tamper with evidence, and directly or indirectly contract, influence, threaten, or intimidate any witness, particularly family members of the deceased.

- b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.
- c) The applicant shall report to the concerned Police Station on the first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
- d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- e) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.
- f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

9. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 21 August 2025 to correct the Crime Register Number. The corrections are shown in italicize.