

Shabnoor

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

BAIL APPLICATION NO.341 OF 2025

Sohansing Omsingh Kharwar

... Applicant

V/s.

State of Maharashtra

... Respondent

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Mr. Neeraj Yadav a/w Deepa Punjani i/b Ms. S. R. Dhakkad, for the applicant.

Ms. Supriya I. Kak, APP for the State – respondent.

Mr. P. K. Maske, Waliv Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 27, 2025

P.C.:

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

2. Learned Advocate for the applicant has placed reliance on

the order dated 2 April 2024 passed by a Co-ordinate Bench of this Court in Bail Application No. 2663 of 2023, whereby co-accused Chetan was released on bail. It is submitted that the role attributed to the said co-accused Chetan is graver, as he was allegedly present at the scene of the robbery and continued the act of recce till the commission of the crime. In contrast, the applicant's role, as alleged, was limited to conducting a preliminary recce only up to a particular point, after which the said co-accused Chetan took over and proceeded further. It is submitted that if the co-accused Chetan, who was present at the spot of incident and directly connected to the commission of the offence, has been released on bail, then the applicant who had comparatively a limited role, deserves to be released on the ground of parity. It is further submitted that although the prosecution has placed reliance on the applicant's past criminal antecedents, those offences are registered in the State of Rajasthan and not in Maharashtra. The applicant has been arrested on 9 January 2022 and has undergone incarceration for more than 3 years and 6 months. Hence, on the ground of parity and prolonged pre-trial detention, he is seeking his release on bail.

3. On the other hand, the learned APP has opposed the bail application and contended that the doctrine of parity cannot be mechanically applied in the present case. It is submitted that the nature and extent of involvement of the present applicant and that of the co-accused Chetan are not identical. It is argued that the applicant has four prior criminal antecedents registered against him, which indicate his habitual involvement in offences of similar

nature. The learned APP submits that considering the seriousness of the allegations, the nature of the offence, and the provisions of the MCOC Act invoked against him, the applicant is not entitled to be released on bail at this stage.

4. Upon considering the submissions of both sides and going through the material placed on record, this Court finds that the role attributed to the present applicant is primarily of conducting a recce till a particular location, after which it is alleged that the co-accused Chetan took over and continued the surveillance and was present at the scene of offence.

5. It is pertinent to note that the Co-ordinate Bench of this Court has already granted bail to the co-accused Chetan by order dated 2 April 2024 in Bail Application No. 2663 of 2023. The allegations against Chetan are of a more direct and proximate nature, as he is stated to have accompanied the other accused till the place of commission of the robbery and was actively present. In comparison, the role of the present applicant appears to be limited and remote, as per the prosecution's own case.

6. Though the prosecution has relied upon criminal antecedents of the applicant, it is seen that the said cases are registered in the State of Rajasthan, and no material has been placed before this Court to indicate the nature, stage, or gravity of those cases. Mere pendency of criminal cases, without detailed particulars, cannot be the sole ground to deny bail.

7. Moreover, the applicant is in judicial custody since 9 January 2022 and has undergone incarceration for more than 3 years and 6

months. As of today, there is no substantial progress in the trial, and there is no indication that the trial will conclude in near future. The right to speedy trial is a fundamental right under Article 21 of the Constitution of India, and continued detention, especially when the co-accused with a graver role has been granted bail, would not be justified.

8. In view of the above facts and circumstances, and considering the principle of parity as well as the period of custody already undergone, this Court is of the opinion that the applicant deserves to be released on bail with suitable conditions.

9. Hence, the following order :

(a) The Bail Application is allowed.

(b) The applicant, shall be released on 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 395, 397, 212 and 120-B read with 34 of IPC and also under Sections 3(1)(ii), 3(2), and 3(4) of MCOC Act, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(c) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(d) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(d) The applicant shall report to the concerned Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

(e) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(f) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(g) 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.

10. The Bail Application is disposed of in above terms.

(AMIT BORKAR, J.)