

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

Criminal Bail Application No.364 of 2025

Bhagwan Dhaklu Kharat

Age: 20 yrs, Occ: Nil,

R/at Lane No.10, Shramik

Vasahat, Near Shramik Mitramandal

Karvenagar, Pune District, Pune.

(At present in Pune Jail, Dist. Pune)

... Applicant.

Versus

The State of Maharashtra

Through Sahakarnagar Police Station,

Dist. Pune vide CR No.138/2023.

... Respondent.

Mr Kuldeep Nikam for the applicant.

Mr SV Walve, APP, for respondent / State.

API Ganesh Karche, Sahakarnagar Police Station, Pune.

Coram: R.N. Laddha, J.

Date: 23 December 2025

P.C.:

By this application, the applicant seeks bail in connection with CR No.138 of 2023, registered at Sahakar Nagar Police Station, Pune City, for offences punishable under Sections 143, 144, 147, 148, 149, 427 and 506(2) of the Indian Penal Code (IPC); Sections 4 read with 25 of the Arms Act, 1959; Section 7 of the Criminal Law Amendment Act; and Sections 3(1)(ii), 3(2), and 3(4) of the Maharashtra Control of Organised Crime

Act, 1999 (MCOCA).

2. It is the case of the prosecution that on 20 June 2023, at around 3:15 hrs., the applicant, in connivance with other co-accused persons, armed with deadly weapons, unlawfully assembled in the vicinity of a temple situated within the concerned locality, and caused damage to public and private property by pelting stones and using weapons to smash the wind-shields and glass panes of multiple vehicles parked in the area. It is further alleged that when certain residents and bystanders attempted to question or restrain the said acts of vandalism, one of the co-accused persons intimidated them by issuing threats to cause death or grievous harm to any person who dared to intervene, instilling fear and deterring public resistance.

3. Mr Kuldeep Nikam, the learned Counsel appearing on behalf of the applicant, submits that the applicant has been falsely implicated in the present crime. The applicant's implication is unsupported by cogent material. The applicant was not named in the FIR. The learned Counsel further submits that no recovery has been effected at the instance of the present applicant. The applicant is not implicated in the statements of the first informant or any of the alleged eyewitnesses. The

learned Counsel further submits that the sole material relied upon by the prosecution against the applicant is the alleged confessional statement of the co-accused. It is submitted that the said confessional statement was recorded after an unexplained and inordinate delay of three months from the date of the incident. According to the learned Counsel, even otherwise, a perusal of the said confessional statement would reveal that no overt act or specific role has been attributed to the applicant. The mere presence at or near the place of occurrence, without any active participation or attribution of a specific role, cannot form the sole basis for implicating the applicant in the alleged crime.

4. It is further submitted that the provisions of the MCOCA have been mechanically and erroneously invoked against the applicant. The mandatory statutory requirements for the invocation of MCOCA are not satisfied in the present case. The applicant has only one alleged antecedent, which itself has been registered on the same day at a different police station and pertains to the same incident. It is submitted that a single offence, registered on the same day in relation to the same transaction, cannot by any stretch of imagination constitute 'continuing unlawful activity' to attract the rigours of MCOCA.

5. The learned Counsel further submits that the learned Sessions Judge has erred in law and on the facts in rejecting the applicant's bail application. The rejection is *inter alia* premised on the observation that the applicant is allegedly seen in the CCTV footage in the company of the co-accused at the relevant time. However, it is submitted that no such CCTV footage forms part of the charge sheet and the said finding is thus wholly unfounded and unsupported by the record. The learned Sessions Judge has further erred in observing that three persons sustained injuries in the alleged incident. It is submitted that there is no reference to any such injured persons either in the statement of the first informant or in the statements of the alleged eyewitnesses, nor are any injury certificates of such alleged victims annexed to the charge sheet.

6. The learned Counsel further submits that all the offences alleged against the applicant, except the offence under MCOCA, are bailable in nature. The applicant has been languishing in jail since 5 July 2024, however, the charges are yet to be framed and the trial is likely to take a considerable time to conclude. The continued incarceration of the applicant pending trial, in such circumstances, would amount to a pre-trial punishment. The learned Counsel also submits that the applicant is ready and willing to abide by any conditions that

this Court may deem fit to impose, including a condition restraining him from entering the territorial jurisdiction of Pune District till the conclusion of the trial.

7. On the other hand, Mr SV Walve, the learned Additional Public Prosecutor representing the respondent/State, opposed the present application. He submits that the alleged offence is of a grave and serious nature, involving acts that are not only destructive but also calculated to instil fear and insecurity among the residents. It is the contention of the learned APP that the applicant, in connivance with the co-accused, wilfully vandalised the vehicles. The said acts, according to the learned APP, were not isolated or spontaneous, but were executed in a premeditated and orchestrated manner with the intent to disrupt public order and create an atmosphere of terror in the vicinity. The learned APP further submits that the applicant was present at the scene of the incident at the material time and played an active role in the commission of the offence. He expresses a serious apprehension that if the applicant is released on bail, he may tamper with the evidence and influence the prosecution witnesses.

8. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

The prosecution's case, in brief, pertains to an incident alleged to have occurred on 20 June 2023 at around 3:15 am, wherein certain persons, allegedly forming an unlawful assembly and armed with deadly weapons, caused damage to public and private property and intimidated residents and bystanders. The applicant is alleged to be one of the members of the said unlawful assembly. It appears from the records that the applicant was not named in the FIR. The statements of the first informant as well as the alleged eyewitnesses do not attribute any role to the applicant. There is no specific or overt act alleged against the applicant in the commission of the offence. Admittedly, no recovery of any weapon or incriminating article has been effected at the instance of the present applicant. The prosecution has not been able to demonstrate any direct material linking the applicant with the acts of vandalism or intimidation alleged to have been committed.

9. The material relied upon by the prosecution against the applicant appears to be the confessional statement of a co-accused. The said statement has been recorded after a delay of about three months from the date of the incident, for which no satisfactory explanation is forthcoming. Even otherwise, a perusal of the said confessional statement does not disclose any specific role or overt act attributed to the applicant. It is well

settled that a confessional statement of a co-accused, particularly, at the stage of bail, should be viewed with caution and cannot, by itself, form the sole basis for continued incarceration.

10. The learned Sessions Judge, while rejecting the bail application, has observed that the applicant was seen in CCTV footage in the company of the co-accused. However, it is an admitted position that no such CCTV footage forms part of the charge sheet. In the absence of the said material on record, the aforesaid observation appears to be unsupported by the material collected during the investigation. Similarly, the observation that three persons sustained injuries in the incident does not find support in the charge sheet. There is no reference to any injured persons in the statements of the first informant or any other witnesses, nor are there any injury certificates.

11. As regards the invocation of the provisions of the MCOCA, the material on record indicates that the applicant has only one alleged antecedent, which itself has been registered on the same day, at a different police station, and pertains to the same incident. It is also pertinent to note that all the offences alleged against the applicant, except the offence under MCOCA, are bailable in nature. The applicant has been

linguishing in jail since 5 July 2024, however, the charges are yet to be framed, and the trial is likely to take a considerable time to conclude.

12. The learned Counsel for the applicant fairly submits that the applicant is ready and willing to abide by any conditions that may be imposed by this Court, including a condition restraining him from entering the territorial jurisdiction of Pune District during the pendency of the trial. The said submission further mitigates the apprehension of misuse of liberty.

13. In the totality of the circumstances, this Court is of the opinion that the applicant has made out a case for the grant of bail. Hence, the following order.

Order

(i) The applicant shall be released on bail in CR No.138 of 2023, registered at Sahakar Nagar Police Station, Pune City, upon executing a PR Bond of Rs. 25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall not enter the territorial jurisdiction of the Pune District until the conclusion of the trial, save and

except to attend the trial proceedings.

(iii) The applicant, either himself or through any other person, shall not tamper with the evidence or influence witnesses.

(iv) 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.

(v) The applicant shall regularly attend and cooperate with the trial Court for the expeditious disposal of the case.

14. The present bail application stands disposed of accordingly.

[R.N.Laddha, J.]