

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1920 OF 2025

Ajay Ashok Nagvanshi ... Applicant
V/s.
The State of Maharashtra ... Respondent

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Ms. Pooja A. Dongre with Mr. Nilesh Kashyap for the applicant.

Mr. Sagar R. Agarkar, APP for the respondent-State.

Mr. S.B. Salve, PSI, Hill Line Police Station, Ulhasnagar, is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 22, 2025

P.C.:

1. By the present application filed under Section 439 of the Criminal Procedure Code, 1973 ("Cr.P.C."), the applicant seeks his release on regular bail in connection with Crime Register No. 592 of 2024 registered with Hill Line Police Station, Ulhasnagar. The offences alleged against the applicant are punishable under Sections 308(2), 351(3), 125, 352, 3(5), 189(2), 191(2), 191(3), 190 and 13 of the Bhartiya Nyay Sanhita, 2023, Sections 142, 37(1), and 135 of the Maharashtra Police Act, Sections 3 and 35 of the Arms Act, and Sections 3(1)(ii), 3(2), and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ("MCOCA" for short).

2. The prosecution case, in brief, is that the First Information Report (“FIR”) came to be lodged by one Mahesh Duseja, who is the owner of a pan stall. He has alleged that on 25 July 2024 at about 12.30 a.m., when he along with his workers Mukesh and Santosh was closing the pan stall, three persons arrived on a black colour Pulsar motorcycle and one more person came on another motorcycle. Amongst them, one was identified as accused Yuvraj Pawar. It is alleged that Yuvraj demanded a cigarette packet and further directed that cigarettes and pan material be given to his associates without charging money. He also threatened to kill the complainant and demanded a sum of Rs. 5,000/- per month as “protection money” for allowing him to run the business. When the complainant expressed his inability to pay immediately, accused Yuvraj picked up a stone and hurled it at him with the intention to kill. The complainant managed to save himself. At the same time, another person in a black T-shirt brandished a knife and threatened to kill the complainant, which led to panic amongst his workers and others present there. On hue and cry being raised, other people gathered at the spot. Thereafter, accused Yuvraj, Rahul, and their associates hurled abuses, issued threats, and left the spot. It is further stated that a magazine was found lying at the spot by the worker Mukesh.

3. Learned Advocate for the applicant, while drawing attention to the FIR dated 25 July 2024, contended that the applicant has not been named in the said FIR. It is submitted that the only material against the applicant is a confessional statement of co-accused recorded under Section 18 of MCOCA, wherein the co-

accused has attributed to the applicant a role of abusing and threatening the complainant along with others. The learned Advocate submits that the applicant has no prior criminal antecedents, and the active role has been attributed only to the gang-leader and the other principal accused. It is submitted that the applicant was arrested on 29 July 2024 and, since investigation is now completed and charge-sheet is filed, further custodial detention of the applicant is not necessary. It is therefore prayed that the applicant be released on bail.

4. Per contra, the learned APP has opposed the application. He submits that the applicant is an active member of the organised crime syndicate led by the co-accused. According to him, the material collected by the Investigating Agency establishes the presence of the applicant at the scene of occurrence. He further points out that both the confessional statement of the applicant himself and of the co-accused clearly indicate that the applicant actively participated by hurling abuses and issuing threats to kill the complainant, thereby aiding the unlawful demand of protection money. It is contended that once membership of an organised crime gang is established, the requirement of filing two separate charge-sheets against the applicant individually in the past ten years does not arise, so long as there exist two or more charge-sheets against the gang itself. He therefore submits that, having regard to the seriousness of the accusations, the statutory bar under MCOCA, and the organised nature of crime, the application for bail does not deserve consideration and ought to be rejected.

5. I have carefully considered the rival submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also perused the FIR, the confessional statements and the charge-sheet papers placed before me.

6. At the outset, it is true that the name of the applicant does not figure in the FIR lodged by the complainant. The role of the applicant surfaces only on the basis of the confessional statement of the co-accused recorded under Section 18 of MCOCA. Apart from this, there is no independent material collected by the Investigating Officer to directly establish the presence or active participation of the applicant at the spot. The specific allegations in the FIR are primarily against accused Yuvraj Pawar, who is alleged to have hurled a stone at the complainant, and another person who brandished a knife. The applicant is not attributed with such overt acts in the complaint.

7. It is also relevant to note that the applicant has no past criminal antecedents. He came to be arrested on 29 July 2024 and is in custody since then. Investigation is now complete and the charge-sheet is already filed. Therefore, the need for further custodial interrogation does not arise. The possibility of tampering with evidence or influencing witnesses can be safeguarded by imposing appropriate conditions.

8. It is settled law that grant of bail under MCOCA requires a careful consideration of the material to assess whether there is a reasonable ground for believing that the applicant is not guilty of such offence and is not likely to commit any offence while on bail.

In the present case, the role attributed to the applicant appears to be only of general threats and abuses, and the main acts of violence are attributed to other accused persons. Prima facie, the case does not disclose such strong material as would justify prolonged incarceration of the applicant during the course of trial.

9. Considering these aspects, and balancing the gravity of allegations with the right of personal liberty under Article 21 of the Constitution of India, I am of the opinion that further detention of the applicant is not warranted. The apprehensions of the prosecution can be met by imposing strict conditions to ensure that the applicant does not indulge in similar activities and cooperates with the trial.

10. 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.592 of 2024 registered with Hill Line Police Station, Ulhasnagar for offences punishable under Sections 308(2), 351(3), 125, 352, 3(5), 189(2), 191(2), 191(3), 190, and 13 of the BNS, 2023 and Sections 142, 37(1), and 135 of the Maharashtra Police Act and Sections 3, and 35 of the Arms and Sections Sections 3(1) (ii), 3(2), and 3(4) of the MCOCA, upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty 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, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(b) The applicant shall report to the Hill Line Police Station, Ulhasnagar once in a month, specifically on the 1st Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not leave the territorial jurisdiction of State of Maharashtra without its prior written permission of the trial court.

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

(e) 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.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

11. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)