

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

Bail Application No.2599 of 2025

Haider Javed Sayyad @ Shaikh
Age 26 years, Indian Inhabitant,
Residing at : Mukti Housing Society,
Flat No.1, Kashidnagar,
Pimplegurav, Pune.

... Applicant

versus

The State of Maharashtra
@ Wakad Police Station

...Respondent

Mr Aniket Vagal a/w Ms Savvy Kolhekar a/w Ms Juhi Kadu, for
the Applicant.

Mr Arfan Sait, APP, for Respondent / State.

GPSI A D More, Wakad Police Station, Pune, is present.

Coram: R.N. Laddha, J.
Date: 3 December 2025

P.C.:

By this application, the applicant (accused No.1) seeks bail in connection with CR No.186 of 2021, registered at Wakad Police Station, Pune, for offences punishable under Sections 307, 326, 324, 323, 143, 147, 148, 149, 504, 506(2) and 427 of the Indian Penal Code; Section 4(25) of the Arms Act, 1959; Sections 135 read with 37(1)(3) of the Maharashtra Police Act, 1951; Sections 3 and 7 of the Criminal Law Amendment Act, and Sections 3(1)(ii) and 3(4) of the Maharashtra Control of

Organised Crime Act, 1999 ('MCOCA').

2. It is the case of the prosecution that on 28 February 2021, at above 4 pm the applicant and the co-accused arrived near the informant's residence on motorcycles. They were allegedly armed with deadly weapons, including sickles and wooden logs. The accused persons inquired about Atharva Tambore and threatened to kill him. They brandished the aforementioned weapons in a menacing manner, thereby creating an atmosphere of fear and terror in the locality. Apprehending danger to their lives, the informant and his companions concealed themselves within the house. The accused persons subsequently left the spot. However, at above 9.30 pm on the same day, the said accused persons once again returned to the vicinity, this time armed with sickles, swords, and wooden logs. Accused Sonya Sawant allegedly threatened to kill the informant while brandishing a sword. At this juncture, Priyanka Tambore, mother of Atharva, intervened and pleaded with the accused persons.

3. It is further alleged that accused Dipak Sagar lifted a tile line at the spot and threatened to kill the informant. When neighbours, Sagar Shinde and Sangita Tupe, attempted to intervene and pacify the altercation, accused Vinayak

Shriwastava assaulted Sagar Shinde on the head with a sickle. Applicant Haider assaulted him with a flower pot, while other accused persons beat him with wooden logs. They also allegedly assaulted and abused Priyanka Tambore. It is further alleged that accused Vinayak Shriwastava threatened the other residents not to step out of their homes. The collective acts of the accused persons created a climate of fear and substantial terror in the neighbourhood.

4. Mr. Aniket Vagal, the learned Counsel appearing on behalf of the applicant, has vehemently asserted the applicant's innocence and contended that the applicant has been falsely implicated in the present offence. It is submitted that the principal role in the alleged incident is attributed to accused No.3, Vinayak Shriwastava, who is alleged to have wielded the sickle and who, notably, has a history of criminal antecedents. Despite the gravity of the allegations against him, the said co-accused has been granted bail.

5. It is submitted that the incident in question is stated to have occurred on 28th February 2021; however, the FIR came to be registered only on the following day, i.e., 1st March 2021. No cogent explanation has been furnished by the prosecution for the delay in lodging the FIR, which casts a shadow on the

promptness and credibility of the prosecution's version. Furthermore, it is submitted that the injured party was discharged from the hospital on the very same day, indicating that the injuries sustained were not of a grievous nature.

6. It is further contended that no incriminating material has been recovered either from the possession of the applicant or at his instance during the course of the investigation. There is no material on record to suggest that the applicant is a gang leader or that he has any association with organised crime. The applicant does not have any prior criminal record in conjunction with the co-accused persons, and therefore, the invocation of the provisions of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act) is wholly misconceived and unsustainable in the facts of the present case.

7. It is also brought to the attention of this Court that the applicant has been languishing in jail since 13th May 2021. Despite the passage of considerable time, the charges have not yet been framed. The prosecution proposes to examine as many as 33 witnesses, which would inevitably prolong the trial. In such circumstances, continued incarceration of the applicant, who has already undergone substantial pre-trial detention, would amount to pre-conviction punishment and is not

warranted, particularly when the co-accused alleged to have played a more serious role has already been granted bail. The learned Counsel further submits that the applicant is ready to abide by any conditions imposed by this Court, including to reside outside the territorial limits of Satara and Pune Districts until the conclusion of the trial.

8. Mr. Arfan Sait, the learned Additional Public Prosecutor appearing on behalf of the respondent/State, has vehemently opposed the present application seeking bail. He submits that the applicant is the leader of a criminal gang and has a history of prior involvement in criminal activities, as reflected in his antecedents. It is further contended that the applicant has been explicitly named in the FIR as one of the assailants involved in the alleged incident. The learned APP also points out that the weapon of offence, namely, a flower pot purportedly used by the applicant during the commission of the crime, has been recovered from the scene of occurrence, lending credence to the prosecution's case at this stage.

9. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records. The prosecution alleges that on 28 February 2021 the applicant, along with the co-accused, visited the informant's

locality on two occasions, armed with sickles, swords and wooden logs, and allegedly threatened and assaulted the informant and others. It is the prosecution's case that one Sagar Shinde sustained injuries during the altercation and that certain accused persons brandished weapons, creating fear in the locality.

10. The primary role in the assault, particularly the alleged use of a sickle resulting in head injury to Sagar Shinde, is attributed to accused No. 3, Vinayak Shriwastava. It is not in dispute that the said co-accused has a criminal history and was assigned the most active role in the alleged incident. Notwithstanding the gravity of allegations against him, accused Vinayak Shriwastava has already been enlarged on bail. The applicant is stated to have assaulted the injured with a flower pot, which material, notably, was recovered from an open scene and not at the instance of the applicant.

11. The incident is alleged to have occurred on 28 February 2021, whereas the FIR was lodged on the following day, 1 March 2021. No satisfactory explanation for the delay has been offered by the prosecution. While a delay *per se* is not fatal, in the present case it assumes significance given the nature of the allegations and the contention of false implication.

12. The injured, Sagar Shinde, was discharged from the hospital on the same day of admission. This circumstance *prima facie* indicates that the injuries, though not denied, were not of a grievous nature. Nothing has been placed on record to show that the injuries are life-threatening or permanently disabling.

13. It is also a matter of record that no incriminating material has been recovered from the possession of the applicant or at his instance. The record, at this stage, does not disclose any cogent material to *prima facie* justify the invocation of the provisions of the MCOC Act against the applicant. The prosecution's contention that the applicant is the leader of a criminal gang is not supported by any substantive material beyond mere assertion.

14. The applicant has been languishing in jail since 13 May 2021, i.e., for more than three years. Despite such prolonged detention, the charges have not yet been framed. The prosecution proposes to examine 33 witnesses, and therefore the likelihood of the trial commencing and concluding in the near future is remote. Continued incarceration of the applicant, in these circumstances, would amount to pre-trial punishment,

which is impermissible in law, particularly when the co-accused alleged to have played a more serious role has already been granted bail. The apprehensions expressed by the prosecution can be sufficiently addressed by imposing suitable conditions to ensure that the applicant does not influence witnesses or tamper with evidence.

15. In view of the above factors, parity with the co-accused, absence of recovery from the applicant, doubtful applicability of the MCOC Act, the non-grievous nature of injuries, the delay in lodging the FIR, lack of material showing organised crime nexus, and prolonged under-trial incarceration, this Court is satisfied 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.186 of 2021, registered at Wakad Police Station, Pune, upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

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

(iii) The applicant shall not enter the territorial jurisdiction of Pune and Satara districts until the conclusion of the trial, save and except to attend the trial proceedings before the jurisdictional Court.

(iv) The applicant shall cooperate and regularly attend the trial proceedings before the jurisdictional Court for the expeditious disposal of the case.

(v) The applicant shall inform the Inspector of the concerned Police Station about his residential and contact details and inform him of any subsequent changes forthwith.

16. The application stands disposed of accordingly.

(R.N. Laddha, J.)