



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (BA) NO.583/2025

Vinod s/o Chindhuji Maskare

..VS..

**State of Maharashtra, through Police Station Officer, Police Station,
Kondhali, Taluka Katol, District Nagpur**

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri J.B.Kasat, Counsel for the Applicant.

**Shri D.V.Chauhan, Public Prosecutor (Senior Counsel) assisted by Shri
Anant Ghongre, Additional Public Prosecutor for the State.**

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 13/06/2025

PRONOUNCED ON : 19/06/2025

1. By this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks regular bail in connection with Crime No.822/2024 registered with the non-applicant/police station for offences punishable under Sections 310(2), 318(4), 316(2), 204, 61(2), 3(5), 111, 318(2) of the Bhartiya Nyaya Sanhita, 2023.

2. The applicant is arrested on 12.12.2024 and

since then he is in jail.

3. The criminal law was set into motion on the basis of a report lodged by Gajanan Sukhdevrao Bramhne. As per his report, his friend Kalpesh Anandrao Amrute received a phone call from an unknown person for sale of treasure. The unknown person disclosed his name as Santosh Agrawal and called said Kalpesh at Jagnade Chowk, Nagpur. Thereafter, said Kalpesh along with Nilesh Korde visited the said square. Said Santosh Agrawal, who came in car Mercedes bearing registration No.MH-43/AR/7399, shown them one kilogram gold coin and also three to four yellow metal like gold coins worth of Rs.40.00 lacs. It was finally agreed to complete the transaction after Legislative Assembly Elections. On 5.12.2024, said Kalpesh informed Santosh Agrawal that he is ready with amount and will pay the same at Warud, district Amravati. Santosh Agrawal asked Kalpesh to meet at Talegaon or Kondhali. Accordingly, on 9.12.2024, the

complainant along with Kalpesh and Nilesh visited Ankaleshwar Dhaba near Kondhali in Vento Car bearing registration No.MH-27/BE/3689. An unknown person called said Santosh Agrawal from mobile phone of said unknown person by name Patel. Kalpesh also accompanied with Santosh Agrawal. At around 3:00 pm, Santosh Agrawal came at Ankaleshwar Dhaba. The complainant and his friends paid Rs.18.00 lacs and gave a blank cheque of Rs.10.00 lacs. The said money was handed over by Santosh to driver of the car. Thereafter, Santosh Agrawal took the complainant in his Mercedes car and on the say of Santosh Agrawal, they obtained different route. Said Santosh Agrawal alighted from the car on the pretext of answering nature's call and communicated with someone. Immediately, some persons, in a White Colour Tavera Car, came at the spot. They questioned Santosh and Patel and started beating them. The complainant was also assaulted and amount Rs.3000/- was snatched from the complainant. They took

Santosh Agrawal and Patel in their Tavera Car. On the basis of the said report, the police registered the offence against the applicant. As per allegations levelled against the applicant, he is owner and driver of Tavera Car bearing registration No.MH-14/FC/1657 and members of “Organized Crime Syndicate” and in furtherance of their common object of the said syndicate, committed the offence.

4. Heard learned counsel Shri J.B.Kasat for the applicant and learned Public Prosecutor Shri D.V.Chauhan for the State.

5. Learned counsel for the applicant submitted that the applicant is running business of “Tours and Travells” and in the capacity of driver of the car, he went along with the other co-accused as his car was obtained on rent. Except CDRs exchanged between the applicant and other co-accused, there is no other material to show that the applicant is member of the “Organized Crime

Syndicate” or his association with members of the “Organized Crime Syndicate” and, therefore, application of Section 111 of the BNS itself is erroneous as far as the applicant is concerned. He submitted that there is not a single offence registered against the applicant either as member of the “Organized Crime Syndicate” or in an individual capacity. In fact, investigation papers nowhere reveal his association with members of the “Organized Crime Syndicate”. Now, investigation is already completed and chargesheet is already filed. Further incarceration of the application is not required.

6. Learned Public Prosecutor for the State strongly opposed the application and submitted that there is no requirement of registration of the offence against the applicant as his association with other members of the “Organized Crime Syndicate” itself is sufficient to attract the offence under Section 111 of the BNS. He submitted that during investigation, the Investigating Officer collected

CDRs and SDRs of the applicant which show his telephonic contacts with Vilas at the relevant time and his mobile tower location also discloses his location at the spot of the incident. Thus, sufficient material is on record to show connection of the applicant with other co-accused and in the commission of the offence. As such, the application deserves to be rejected.

7. Having heard both sides and perused investigation papers, it reveals that allegation against the applicant is that on the day of the incident, along with other co-accused, he assaulted injured as well as on pretext of handing over gold coins, the complainant and his friends were called and the amount was obtained from them. As far as the investigation is concerned, it shows that the applicant is owner and driver of Tavera Car bearing registration No.MH-14/FC/1657. The applicant has also admitted his presence at the spot of the incident as driver and owner of the car and as per his contention, his car

was obtained on rent, which is the reason behind presence. Except CDRs, admittedly, there is no material on record to show that the applicant was associated with other members of the “Organized Crime Syndicate”.

8. For an activity to be a “continuing unlawful activity”, a) the activity must be prohibited by law; b) it must be a cognizable offence punishable with imprisonment of three years or more; c) it must be undertaken singly or jointly; d) it must be undertaken as a member of an organized crime syndicate or on behalf of such syndicate e) in respect of which more than one charge-sheet have been filed before a competent court.

9. Section 111 of the BNS, defines “continuing unlawful activity”.

10. If facts of the present case are taken into consideration, admittedly, it shows that no offence is registered against the applicant showing his involvement in any legal activity or his association with other co-accused.

11. For enabling the court to exercise its discretion in favour of a person, accused of having committed an offence under Section 111 of the BNS, what is required is, existence of reasonable grounds to believe that applicant's association is with members of the "Organized Crime Syndicate".

12. As far as the applicant is concerned, admittedly, except CDRs, there is absolutely no material to show his association with other co-accused.

13. In the light of above principles, if facts of the present case are considered, admittedly, the evidence on record is not sufficient, at this stage, to show his involvement in the "organized crime". Though the applicant is identified during identification parade, his presence at the spot of the incident is not disputed being he is driver of the said Tavera Car. At this stage, as far as involvement of the applicant is concerned, it appears to be doubtful and, therefore, the application deserves to be

allowed as per order below:

ORDER

(1) The Criminal Application is **allowed**.

(2) Applicant - Vinod s/o Chindhuji Maskare, shall be released on bail, in connection with Crime No.822/2024 registered with the non-applicant/police station for offences punishable under Sections 310(2), 318(4), 316(2), 204, 61(2), 3(5), 111, 318(2) of the Bhartiya Nyaya Sanhita, 2023, on his executing a P.R.Bond in the sum of Rs.50,000/- with one solvent surety of the like amount.

(3) The applicant shall not leave the jurisdiction of the Nagpur District without permission of the District Court, Nagpur.

(4) The applicant shall attend the police station once a month i.e. 15th of every month, till culmination of the trial.

(5) The applicant shall furnish his detailed address along with two names of his relatives with address proofs.

(6) The applicant shall attend proceedings before the Sessions Court at Nagpur without seeking any exception, unless there are exceptional circumstances.

(7) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with facts of the present case.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!