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

CRIMINAL REVISION NO. 90/2025

State of Maharashtra,
through Asst. Superintendent of Police,
Saoner Sub-division, Nagpur (Rural).

...APPLICANT

VERSUS

Lalu @ Lalla s/o Jagdamba Prasad Yadav,
Age 33 yrs., Occ. Nil,
R/o. Yerla, P.S. Kalmeshwar, Dist. Nagpur.

RESPONDENT

Mr. D.V. Chavhan, Additional Public Prosecutor with Mr. N.B. Jawade, APP for applicant/State.
Mr. A. A. Krishnan, Advocate for respondent (appointed)

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/06/2025.

JUDGMENT (ORAL)

Heard.

2. **Admit**.

3. By this revision, the State is challenging the order of the Special Judge (MCOC Act) and District Judge, Nagpur-1 rejecting the

application of the prosecution for seeking Police Custody Remand ("PCR") of the respondent by granting ten days PCR of the respondent for the investigation purpose.

4. Complainant Pramod Morbaji Game on 14.03.2025, lodged the report alleging that on 14.03.2025 along with Rajkumar Game coming from Asti (Khurd) to Yerala at about about 06.30 p.m. on his motorcycle, at that time, the respondent Lalu Yadav and co-accused Ganesh Mondhe assaulted complainant with deadly weapon. Co-accused Ganesh caught hold complainant Pramod Game and the respondent inflicted the blow of sickle on Pramod Game due to this, he sustained grievous injury to his right fingers, lips, left hand and toot of the complainant was broken and they both have sustained the grievous injuries. Thereafter the accused fled away from this spot. On the basis of the said report, the Police have registered the crime vide Crime No. 194/2025. Initially, crime was registered under Sections 109, 118(1), 61(2), 3(5) of the Bhartiya Nagrik Suraksha Sanhita, 2023 ("BNSS"). During investigation, the Investigating Officer submitted a proposal for application of the provisions of the Maharashtra Control of Organised Crime Act ("MCOC Act") and the

same was allowed by the Special Inspector General of Police, Nagpur to apply the provisions of the MCOC Act and accordingly, the approval was granted. After receipt of the approval, on 03.05.2025, the Investigating Officer filed an application of obtaining the custody of the present respondent for the investigating purpose, however said application was rejected by the Special Court and hence, this revision.

5. Heard learned Public Prosecutor for the State who submitted that during investigation, it revealed that the involvement of the present respondent is in continuous illegal activities and he is a member of Organised Crime Syndicate, therefore, the Investigating Officer approached to the Superior Authority for obtaining the approval under Section 23(1) of the MCOC Act. The Competent Authority has considered the entire record and it reveals that in all nine offences are registered against the present respondent which are registered on an allegation that these offceces are committed by him for obtaining the pecuniary gain. The competent authority has also considered his continuous involvement in continuing unlawful activities and he has been charge-sheeted in eight different serious offences and therefore, approval was granted. After granting of the

approval, it was necessary for the Investigating Officer to investigate as to his involvement being a member of the Organised Crime Syndicate and also to ascertain whether he has obtained the pecuniary gain by committing such offences. Therefore, the application was made to the Special Court for grant of Police Custody, however, the Special Court has only considered that only ground raised by the Investigating Officer for Police Custody of accused that he wants to investigate whether any property is purchased by the accused or where there is any bank account in which money is deposited. Both the grounds are raised are not justifiable for PCR. This observation of the Special Court itself is erroneous as that was not the only ground raised in the application, but the other grounds were also raised by the Investigating Agency that the investigation as to his involvement in the continuing unlawful activities as well as whether his involvement in offences for obtaining pecuniary gain is to be ascertained, but the Special Court has not considered the same. He has also invited my attention to the provisions of Section 187 of the BNSS and submitted that the Investigating Agency can apply for the extension or for the Police Custody of the accused in view of Sub-section (2) of Section

187 which read as, *"The Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration whether such person has not been released on bail or his bail has been cancelled, authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3), and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction."* He further submitted that initially, also only one day PCR was granted for the investigating purpose. Now considering the gravity of the offence and the investigation regarding his involvement in continuing unlawful activities, his PCR is required, therefore the order of the Special Court deserves to be quashed and set aside and the respondent be remanded into the Police Custody.

6. Learned counsel for the respondent strongly opposed said application and submitted that the order passed by the Special Court is a reasoned order, wherein it is specifically observed that the only ground raised in the application that investigation as to his assets is to be carried out and that is not the sufficient ground for granting of Police Custody and therefore, there is no interference call for and hence revision being devoid of merit, is liable to be dismissed.

7. Before going into the controversy involved in the present application, it is necessary to see certain provisions of the MCOC Act and its preamble. The preamble states that it is an Act to make special provisions for prevention and control of, and for coping with the criminal activity by organized crime syndicate or gang, and for matters connected therewith and incidental thereto. The MCOC Act, states the preamble, makes special provisions for prevention and control of, for coping with, criminal activity by organized crime syndicate or gang. Essentially, therefore, the MCOC Act targets the unlawful activities of the organized crime syndicate. The objects and statements of the MCOC Act show that organized crime has for quite some years come up as a very serious threat to the society. It knows no national

boundaries and is fueled by illegal wealth generated by contract, killing, extortion, smuggling in contrabands, illegal trade in narcotics kidnappings for ransom, collection of protection money and money laundering, etc. The illegal wealth and black money generated by the organized crime being very huge, it has had serious adverse effect on our economy. It was seen that the organized criminal syndicates made a common cause with terrorist gangs and foster terrorism which extend beyond the national boundaries. There was reason to believe that organized criminal gangs have been operating in the State and, thus, there was immediate need to curb their activities. Therefore, the legislatures felt that the existing legal framework i. e. the penal and procedural laws and the adjudicatory system was found to be rather inadequate to curb or control the mense of organised crime, therefore, the special law was enacted with stringent and deterrent provisions including in certain circumstances power to intercept wire, electronic or oral communication to control the mense of the organised crime. It is the purpose of this Act to achieve these objects.

8. In the light of the above, preamble and object behind the enactment, it is necessary to see what the organize crime means.

Section 2(1)(e) of the MCOC Act defines "organised crime" means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency.

9. The definition of "continuing unlawful activity" within meaning of Section 2(1)(d) states an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three or more, undertaken either singly or jointly, as a member of organized crime syndicate or on behalf of such syndicate in respect of which more than one chargesheets have been filed before a competent court within the preceding the period of ten years and that court has taken cognizance of such offence. Thus, 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, and e) in respect of which more than one charge- sheet have been filed before a competent court.

10. The Apex Court has dealt with the above said situation and in the case of ***Ranjitsing Brahmajeetsing Sharma vs. State of Maharashtra and anr, reported in (2005)5 SCC 294*** observed that in order to invoke MCOC Act even if a person may or may not have any direct role to play as regards the commission of an organised crime, if a nexus either with an accused who is a member of an "organised crime syndicate" or with the offence in the nature of an "organised crime" is established that would attract the invocation of Section 3(2) of MCOC Act. Therefore, even if one may not have any direct role to play relating to the commission of an "organised crime", but when the nexus of such person with an accused who is a member of the "organised crime syndicate" or such nexus is related to the offence in the nature of "organised crime" is established by showing his involvement with the accused or the offence in the nature of such "organised crime", that by itself would attract the provisions of MCOC Act.

11. In the light of the above well settled legal positions, if the proposals which was sent for applying the MCOC Act is concerned, it shows the crime chart. The crime chart shows that in all nine offences are registered against the present respondent out of which in two offences, he was acquitted but still seven offences are pending against the respondent. The nature of offences shows that the said offences have been committed by the present respondent in furtherance of the common object of the unlawful assembly. The nature of the offences further shows that it were committed against the persons or the property of the individual for obtaining the pecuniary gain. The competent authority has considered those aspects and thereafter granted an approval. Thus, the involvement of the present respondent reveals in various offences and the modus operandi of the present respondent also reveals from the nature of the offences. The learned Special Court has not considered that not only the assets of the respondent are to be investigated but his involvement in the organised crime syndicate is also required to be investigated and in view of Section 187(2) of BNSS, the State has rightly filed an application and therefore, the opportunity is to be granted to the Investigating Officer

to investigate the matter and therefore the prayer of the State for grant of Police Custody is required to be considered.

12. In view of above observation, the order dated 03.05.2025 passed by the Special Judge (MCOC Act) and District Judge-1 is required to be quashed and set aside. The prayer of the present applicant i.e. State for remanding the respondent into Police Custody is required to be allowed. In view of that, I proceed to pass following order:-

(I) Revision application is allowed.

(II) The order dated 03.05.2025 passed by the Special Judge (MCOC Act) and District Judge-1 is hereby quashed and set aside. The respondent is remanded to the Police Custody for seven days.

13. Revision application stands disposed of in above terms.

(URMILA JOSHI-PHALKE, J)

Gohane