IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1734 OF 2026

Fahad Ahmed Shutari s/o.
Laique Ahmed Shutari
Age : 45 Yrs., Occu. : Labour
R/o. Kiradpura, Chh.Sambhajingar ... Applicant

Versus

The State of Maharashtra,
Through Police Inspector,
Jinsi Police Station, Chh. Sambhajinagar ... Respondent

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Mr. Satej S. Jadhav, Advocate for Applicant.
Mr. D. J. Patil, APP for Respondent – State.

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AND
BAIL APPLICATION NO.1735 OF 2026

Fahad Ahmed Shutari s/o.
Laique Ahmed Shutari
Age : 45 Yrs., Occu. : Labour
R/o. Kiradpura, Chh.Sambhajingar ... Applicant

Versus

The State of Maharashtra,
Through Police Inspector,
Jinsi Police Station, Chh. Sambhajinagar ... Respondent

.....

Mr. Satej S. Jadhav, Advocate for Applicant.
Mr. K. K. Naik, APP for Respondent – State.

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CORAM : HITEN S. VENEGAVKAR, J.

DATED : 08th OCTOBER, 2026

ORDER :

1. These applications seek the release on bail in Crime Nos.182/2026 and 181/2026, respectively, registered with Jinsi Police Station, Chhatrapati Sambhajinagar. The crimes arise from the inspection of the same godown. The first concerns supplementary nutrition supplied through the Women and Child Development Department, while the second concerns foodgrains allegedly meant for public distribution and the storage of a diesel-like substance. During investigation, Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999, were added. Since the material concerning the applicant and the principal submissions are common, both applications are being decided together.

2. The prosecution states that on the night of 12th June, 2026, the police received information that Kalim Qureshi had stored ration foodgrains in a godown beneath M.R. Function Hall, Lane No.5, Rahemaniya Colony, Kiradpura, and intended to transport them for sale in the black market with the assistance of the applicant and others. The Assistant District Supply Officer was called to the premises, where foodgrains were found being loaded into an Eicher truck. Samir Babar Qureshi was present there. As the quantity was substantial and the stock could not be properly counted at that late hour, the goods were unloaded, the premises

were sealed and a police guard was posted.

3. The prosecution further states that the premises were opened the following morning in the presence of officials, panch witnesses, Samir Qureshi and the applicant. Stocks of rice, wheat, sugar, jowar and maize, a weighing scale and four plastic cans containing about 100 litres of a diesel-like substance were found. The sugar packets bore markings indicating that they were meant for beneficiaries of the Antyodaya scheme. Samples of the other foodgrains, which were stored in privately labelled bags, were collected for examination. According to the informant,Accused Samir Qureshi stated that he, the applicant and others purchased ration foodgrains from beneficiaries, stored them in the godown and thereafter transported them for sale in the Karodi area. Crime No.181/2026 came to be registered on the complaint of the Assistant District Supply Officer.

4. The prosecution states that supplementary nutrition intended for young children, pregnant women and lactating mothers was also found during the inspection. The Child Development Project Officer and his staff were called to examine that stock. They found 23 bags of khichdi premix, 18 bags of cereal and protein premix and 140 empty packets bearing particulars of the Government scheme. The stock was valued at Rs.1,31,200/-.

Samir Qureshi allegedly stated that this nutrition was obtained from beneficiaries in exchange for foodgrains and was sold to persons preparing chivda. This resulted in the registration of Crime No.182/2026 under Sections 3 and 7 of the Essential Commodities Act, 1955, and Section 318 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023. The applicant has been in custody since 14th June, 2026. His subsequent applications for bail were rejected by the Special Court on 4th August, 2026.

5. Learned Advocate for the applicant submits that the applicant was not present during the initial raid and that neither the godown nor the vehicle belongs to him. He disputes the allegation that the applicant had taken the premises on rent and submits that no rent agreement or independent supporting material has been shown. According to him, the allegation of purchasing and selling the goods is principally based upon the statement attributed to accused Samir Qureshi during police inquiry. He submits that the applicant is a labourer and that no material has been produced to show that he was a member of an organised crime syndicate or knowingly participated in its activities. He further submits that the applicant had already been granted bail in Crime No.181/2026 but could not secure his release because MCOCA was subsequently invoked. He also questions the

registration of two FIRs arising from the same transaction and the attraction of the Essential Commodities Act. The seized articles are already in the custody of the investigating agency, and he submits that further detention is unnecessary.

6. Learned APP submits that the applicant was associated with the other accused in the collection, storage and sale of goods supplied under Government welfare schemes. He relies upon the applicant's presence when the premises were opened, the statement of a co-accused that the godown was rented by the applicant and the fact that the applicant was called to the spot over the telephone. He also refers to a statement recorded from the applicant. Learned APP submits that other accused have been involved in similar offences and that the provisions of MCOCA have been invoked on that basis and that the investigation is continuing. He opposes release having regard to the nature of the seized goods and the apprehension of interference with the investigation.

7. I have heard the arguments of learned Counsel appearing for the applicant and Learned APP for state, I have also perused the investigation papers and documentary material annexed to the application and produced by the Learned APP. The previous grant of bail in Crime No.181/2026 is relevant, but the applicant's

present entitlement must be independently examined under Section 21(4) of MCOCA. The Public Prosecutor has been given an opportunity to oppose the applications and has been heard. In ***Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra***, ***(2005) 5 SCC 294***, the Supreme Court explained that the satisfaction required at this stage is to be reached on the material and broad probabilities, without recording a final finding of innocence. In ***Jayshree Kanabar v. State of Maharashtra***, ***(2025) 2 SCC 797,*** the Supreme Court reiterated the necessity of examining the conditions under Section 21(4) and cautioned against conclusive findings on the accused's role while deciding bail. The present consideration is confined to that statutory inquiry.

8. Learned Advocate's submission that there are no earlier charge-sheets against the applicant does not, by itself, exclude MCOCA. In ***Zakir Abdul Mirajkar v. State of Maharashtra***, ***(2023) 20 SCC 408,*** the Supreme Court explained that the requirement of more than one charge-sheet concerns the organised crime syndicate and need not be separately fulfilled against every alleged member. Nevertheless, material connecting the applicant with that syndicate or with the organised crime attributed to it is necessary. The absence of earlier cases against him is therefore considered together with the material concerning his alleged role, rather than

as an independent ground for excluding the Act.

9. The orders of the Special Court refer to earlier chargesheets against Kalim Chotu Qureshi in RCC Nos.749/2026 and 1117/2021, a charge-sheet concerning Matinuddin Kazi in RCC No.2077/2026 and other cases in Thane and Ahilyanagar. Those references cannot be disregarded. However, when Learned APP was specifically asked to indicate the material connecting this applicant with the alleged syndicate, the submissions remained confined to the assertion about the rented premises, his presence when called to the spot and the statements recorded during investigation. No further material explaining his alleged membership, participation in a conspiracy to commit organised crime or knowingly assistance to the syndicate was shown at the time of hearing. The Special Court's conclusion concerning his membership does not sufficiently explain that connection in his individual case.

10. The submission concerning the godown and the applicant's presence requires consideration in that context. His presence when the sealed premises were opened cannot be ignored, nor can his description of himself as a labourer be accepted as an answer to every allegation. At the same time, no rent agreement or independent material supporting the asserted tenancy was shown

to me. The statement attributed to accused Samir Qureshi concerns the alleged purchase and sale of goods in the present transaction. On the material presently placed before this Court, the prosecution has not sufficiently explained how that statement and the applicant's presence connect him with the organised crime syndicate whose previous activities are relied upon. This is an assessment for bail and does not determine the truth of the allegations at this stage but the same will be determined in trial.

11. Learned APP's reference to a statement recorded from the applicant also does not resolve this difficulty. A statement obtained in ordinary police inquiry cannot be treated as a confession under Section 18 of MCOCA merely because provisions of that Act have subsequently been added. No confession recorded under Section 18 has been identified or produced at the hearing. Without finally deciding the admissibility or evidentiary value of any statement, the bare reference to such a statement cannot, in the present circumstances, supply sufficient grounds to connect the applicant with the alleged organised crime. Having considered the material concerning him, this Court prima facie finds reasonable grounds, for the limited purpose of Section 21(4)(b), for believing that he is not guilty of the offences alleged under Sections 3(1)(ii), 3(2) and 3(4) of MCOCA.

12. The further requirement concerning the likelihood of an offence while on bail must also be satisfied. Apart from the two crimes arising from this inspection, no previous offence attributable to the applicant has been identified at the hearing. The goods and vehicle have been seized, and no material showing threats to witnesses or an attempt by him to obstruct the investigation has been pointed out. He is a resident of Kiradpura and has undertaken to cooperate. These circumstances provide a reasonable basis for this Court to be satisfied that he is not likely to commit an offence under MCOCA while on bail. Attendance and non-interference with the investigation and not to influence the witnesses are conditions that will additionally protect the investigation. The general apprehension expressed by the prosecution does not, on the material shown, require his continued detention.

13. The alleged diversion of goods intended for welfare schemes is serious. That consideration has been kept in view, but it does not dispense with the examination required under MCOCA. Since both conditions under Section 21(4)(b) are satisfied, and the stock has already been seized, the applicant can be released on appropriate conditions in both crimes. It is unnecessary for this purpose to finally decide the objection concerning the two FIRs or the disputed

ingredients of the offences under the Essential Commodities Act. Those questions, as well as the final applicability of MCOCA, remain open. Both applications accordingly deserve to be allowed.

ORDER

a) Bail Application Nos.1734 of 2026 and 1735 of 2026 are allowed.

b) The applicant Fahad Ahmed Shutari s/o Laique Ahmed Shutari shall be released on bail in Crime Nos.182/2026 and 181/2026, respectively, registered with Jinsi Police Station, Chhatrapati Sambhajinagar, including the offences added under Sections 3(1)(ii), 3(2) and 3(4) of MCOCA, on furnishing a personal bond of Rs.50,000/- with one solvent surety in the like amount in each crime, to the satisfaction of the Special Court. He shall be released upon compliance unless his custody is required in any other case.

c) The applicant shall attend Jinsi Police Station on the first and third Sunday of each month between 10.00 a.m. and 12.00 noon for three months or until filing of the charge-sheet in the respective crime, whichever is earlier, and thereafter whenever called by the Investigating Officer upon reasonable written notice.

d) He shall cooperate with the investigation and shall not directly or indirectly induce, threaten or promise any person acquainted with the facts of either case, or tamper with the prosecution material.

e) Before release, he shall furnish his residential address and mobile number to the Investigating Officer and the Special Court and shall intimate any change. He shall attend the proceedings before the Special Court unless exempted and shall not leave India without its prior permission.

f) All observations are confined to the consideration of bail. The investigation and trial shall proceed independently of them.

(HITEN S. VENEGAVKAR)
JUDGE

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