IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CRIMINAL APPEAL NO. 702 OF 2026

Nivrutti Deorao Sonkamble
VERSUS
The State Of Maharashtra

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Mr. V.D. Sapkal, Senior Advocate a/w Mr. V.K. Bhosale, Advocate i/b Mr. S R Sapkal and Mr. Yash Jadhav, Advocates for Appellant
Mr. S.N. Morampalle, APP for Respondent-State

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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 20 NOVEMBER, 2026

PER COURT :

1. Heard learned senior counsel Mr. V.D. Sapkal for the appellant and learned APP Mr. S.N. Morampalle for the respondent-State.

2. By the present appeal, the appellant-original accused No.2 challenges the order dated 14.07.2026 passed by the learned Additional Sessions Judge, Gangakhed, below Exhibit 86 in Special Case No.25 of 2023, thereby rejecting his application seeking bail. The appellant, therefore, seeks his release on bail in connection with Crime No.20 of 2023 dated 05.02.2023 registered with Palam Peth Police Station, District Parbhani, for the offences punishable under Sections 395, 201 and 120-B of the Indian Penal Code, read with Sections 3 and 4 read with Section 25 of the Arms Act, 1959, and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (for short, 'the MCOC Act').

3. The prosecution case is that the first informant, namely, Suryakant Madhukar Shinde, lodged a report against unknown persons. The first informant stated that one Madhav Panchal was engaged for making jewellery. On 04.02.2023, while the informant was closing his shop, one unknown person entered the shop and, by threatening him with a knife, directed him to remain silent. Thereafter, two other unknown persons, armed with pistols, entered the shop and, at gunpoint, looted gold and silver ornaments and cash collectively valued at approximately Rs.16,10,000/-. After committing the robbery, the assailants mounted a motorcycle and attempted to flee. When the informant tried to apprehend them, they slapped him and fled from the spot. Since all the assailants had covered their faces, the informant was unable to identify them. Upon receiving information, the police arrived at the spot and conducted a spot panchnama. On the basis of the aforesaid allegations, Crime No.20 of 2023 came to be registered at Palam Peth Police Station, Parbhani, initially against unknown persons. Subsequently, Section 395 of the IPC came to be added and the present appellant was arrested during the course of investigation.

4. Learned senior counsel Mr. V.D. Sapkal for the appellant submits that, upon consideration of the entire investigation papers and, more particularly, the charge-sheet, the role attributed to the present appellant is not that of actual participation in the commission of the offence. According to the charge-sheet, the appellant was standing outside the shop and

keeping watch on whether anybody was approaching the shop. He further submits that, as regards the recovery attributed to the appellant, the same is shown to have been effected on 16.02.2023, whereas the appellant came to be arrested on 17.02.2023. Thus, the alleged recovery is shown to have been effected even prior to his arrest.

5. Learned senior counsel further submits that, for invoking the provisions of the MCOC Act, the prosecution is required to establish the existence of an organised crime syndicate and the involvement of the accused in its activities. He submits that the present appellant is not shown to have been associated with the other co-accused in similar offences registered prior to the present offence. He further submits that only one other crime, bearing Crime No.0099 of 2022, came to be registered against the appellant for the offences punishable under Sections 143, 147, 148, 149, 326, 324, 323, 504 and 506 of the IPC, in which the charge-sheet has already been filed. The said crime does not involve similar allegations. No other similar offence is shown to have been registered against the appellant. Learned senior counsel further submits that the appellant has been in custody since 17.02.2023 and, considering the period of incarceration and the number of witnesses yet to be examined, the trial is not likely to conclude in the near future. On these grounds, he submits that the appellant deserves to be released on bail.

6. Per contra, learned APP Mr. S.N. Morampalle supports the impugned order passed by the learned Additional Sessions Judge, Gangakhed. He submits that the present appeal is the third successive attempt by the appellant to seek bail. The first application, which was filed before filing of the charge-sheet, came to be withdrawn by the appellant on 28.06.2023 when this Court expressed disinclination to grant the relief. Another application was filed after filing of the charge-sheet in January 2026, which also came to be withdrawn by the appellant on 27.01.2026. He, therefore, submits that there is no change in the circumstances warranting grant of bail. He further submits that there is an apprehension that, if released on bail, the appellant may again indulge in similar offences. On these grounds, he submits that the present appeal deserves to be dismissed.

7. I have considered the submissions advanced by the learned counsel for the respective parties and, with their able assistance, have gone through the charge-sheet and the material placed on record.

8. There is no dispute about the fact that the appellant has made three successive attempts to seek bail. The first application, filed before filing of the charge-sheet, was withdrawn on 28.06.2023, whereas the subsequent application, filed after filing of the charge-sheet, was withdrawn on 27.01.2026. Both the earlier applications were withdrawn without adjudication on merits. The present appeal arises out of the rejection of the subsequent application filed below Exhibit 86.

9. On perusal of the charge-sheet, it appears that the role attributed to the present appellant is that of standing outside the shop and keeping watch while the other accused allegedly committed the robbery inside the shop. It is also relevant to note that the alleged recovery is shown to have been effected on 16.02.2023, whereas the appellant came to be arrested on 17.02.2023. This circumstance assumes significance while considering the submissions advanced on behalf of the appellant. Further, it appears that there is one earlier crime, bearing Crime No.0099 of 2022, registered against the appellant under the provisions of the IPC. No other similar offence is shown to have been registered against him.

10. So far as the invocation of the provisions of the MCOC Act is concerned, prima facie, no material has been brought to the notice of this Court to indicate that, prior to the present offence, the appellant was associated with the other co-accused in the commission of similar offences as part of an organized crime syndicate. The only earlier crime registered against the appellant, bearing Crime No.0099 of 2022, relates to offences under the IPC and does not involve similar allegations. No other similar antecedent has been brought to the notice of this Court. Having regard to these circumstances and the role attributed to the appellant, the submissions advanced on his behalf deserve consideration.

11. The apprehension expressed by the learned APP that the appellant may indulge in similar offences if released on bail can be taken care of by imposing stringent conditions. The appellant has been in custody since 17.02.2023, and the prosecution proposes to examine 19 witnesses. The trial is, therefore, likely to take considerable time. Having regard to the role attributed to the appellant, the material on record and the period of incarceration already undergone, this Court is of the view that further incarceration is not warranted andthe appellant deserves to be released on bail by imposing appropriate conditions.

12. In view of the above discussion, the appeal deserves to be allowed. Hence, the following order:

ORDER

I. The Appeal is allowed.

II. The impugned order dated 14.07.2026 passed below Exhibit 86 in Special Case No.25 of 2023 by the learned Additional Sessions Judge, Gangakhed, rejecting the bail application of the appellant, is hereby set aside.

III. The appellant, namely, Nivrutti Deorao Sonkamble, be released on bail in connection with Crime No.20 of 2023 dated 05.02.2023 registered with Palam Peth Police Station, District Parbhani, for the offences punishable

under Sections 395, 201 and 120-B of the Indian Penal Code, read with Sections 3 and 4 read with Section 25 of the Arms Act, 1959, and Sections 3(1)(ii), 3(2) and 3(4) of the MCOC Act, 1999, on executing a P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand only), with two solvent sureties in the like amount, subject to the following conditions:

(a) The appellant shall attend the concerned Police Station every day between 10.00 a.m. and 12.00 noon till conclusion of the trial.

(b) The appellant shall not tamper with the prosecution evidence in any manner or attempt to influence or intimidate the prosecution witnesses.

(c) In the event of breach of any of the above conditions or in case of involvement of the appellant in any similar offence, it shall be open to the prosecution or the complainant to approach this Court for cancellation of bail.

IV. Needless to state that the observations made hereinabove are *prima facie* in nature and confined to the adjudication of the present appeal. The learned Trial Court shall not be influenced by any of the observations made in this order while deciding the case on its own merits.

[SIDDHESHWAR S. THOMBRE]
JUDGE

S P Rane