IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1840 OF 2026

Fardeen Gani Pathan … Applicant

Versus

The State of Maharashtra and another … Respondents

…

Mr. Dhananjay R. Gavhad, Advocate for the applicant
Mr. K. K.Naik, APP for the Respondents State

CORAM : HITEN S. VENEGAVKAR, J.

Dated : 29th October, 2026

PER COURT :-

1. The applicant seeks regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Crime No.182 of 2026 registered with Jinsi Police Station, Chhatrapati Sambhajinagar, for offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955, Section 318 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999. His application for bail was rejected by the learned Special Judge on 4 August 2026.

2. The prosecution states that information was received that Kalim Qureshi had stored Government ration supplies in a godown below M.R. Function Hall at Rahemaniya Colony, Kiradpura, for sale in the black market. During the inspection of the premises, the police and the officials of the Supply Department also noticed supplementary

nutrition supplied through the Women and Child Development Department. Ganesh Pungale, Child Development Project Officer, accompanied by supervisors Usha Wankhede and Revti More, therefore visited the premises on 13 June 2026. Upon inspection, twenty-three bags of khichdi premix and eighteen bags of cereals and protein premix, collectively valued at Rs.1,31,200/-, were found. One hundred and forty empty packets bearing particulars of the Government nutrition scheme were also found. The seized nutrition was intended for children between six months and three years of age and for pregnant and lactating mothers.

3. The prosecution further states that Sameer Qureshi, who was questioned at the premises, could not produce a licence or purchase receipts. He stated that he and his associates purchased ration supplies from beneficiaries and obtained supplementary nutrition received by certain parents from Anganwadis in exchange for food grain. The nutrition was thereafter sold to persons preparing chivda. According to the prosecution, the accused acted together, removed the nutrition from the Government packets and collected it in separate bags for sale for their own monetary benefit. Samples were drawn and the stock was seized. Crime No.182 of 2026 was consequently registered.

4. A connected crime, being Crime No.181 of 2026, was registered at the same police station concerning food grain, an Eicher vehicle and other articles found at the premises. The narrative of that FIR records a statement attributed to Sameer that the present applicant

was their regular driver and that the accumulated grain was transported through him in the Eicher vehicle to a company in the Karodi area for sale. During investigation, the provisions of the MCOC Act were added on the allegation that the accused were acting as members of an organised crime syndicate headed by Kalim Chotu Qureshi.

5. Ld. Advocate for the applicant submits that the applicant is twenty-five years old and earns his livelihood as a driver. He submits that the applicant was not present at the premises at the relevant time, that no property was recovered from his possession and that he had no knowledge of the alleged diversion of Government supplies. According to him, the applicant has been implicated on the statements of others without material showing his conscious participation in the alleged activity. He further submits that the applicant has no previous criminal history apart from the connected Crime No.181 of 2026, in which he has been granted bail. The earlier charge-sheets referred to by the learned Special Judge concern other accused and cannot, by themselves, establish the applicant's membership of the alleged syndicate.

6. Ld. Advocate for the applicant further submits that the requirements of continuing unlawful activity and organised crime have not been established against the applicant. He relies upon ***State of Maharashtra v. Shiva @ Shivaji Ramaji Sonawane*****, (2015) 14 SCC 272,** and ***Zakir Abdul Mirajkar v. State of Maharashtra*****,** decided on 24

August 2022. He also disputes compliance with Section 23(1)(a) of the MCOC Act and submits that the prosecution must identify the order under Section 3 of the Essential Commodities Act which is alleged to have been contravened. Relying upon ***State of Maharashtra v. Bharat Shanti Lal Shah***, he submits that bail in another offence does not attract an automatic prohibition under Section 21(5) of the MCOC Act. He submits that the property has already been seized, the applicant's parents depend upon him and his presence can be secured by appropriate conditions.

7. Ld. APP opposes the application and submits that Government supplies intended for vulnerable beneficiaries were diverted for sale in the black market. He submits that the applicant assisted the other accused in their organised activity and that the earlier charge-sheets referred to in the order of the learned Special Judge demonstrate continuing unlawful activity by the syndicate. He relies upon the quantity and nature of the seized stock, the alleged role of the applicant in transporting the grain and the seriousness of the offence. He further submits that release of the applicant may enable him to influence witnesses or obstruct the investigation.

8. The application requires consideration in the light of Section 21(4) of the MCOC Act. The prosecution has opposed bail and, therefore, the Court must be satisfied that there are reasonable grounds for believing that the applicant is not guilty of the offence under that Act and that he is not likely to commit an offence while on bail. In

Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra, (2005) 5 SCC 294, the Supreme Court explained that this provision does not require a positive finding of innocence. The assessment must rest upon broad probabilities, while maintaining the distinction between an order granting bail and a judgment after trial. The applicant's antecedents and the nature of his alleged participation are also relevant to the likelihood of his committing an offence under the Act while on bail.

9. The submission that MCOCA cannot apply because no previous charge-sheet was filed against the applicant personally cannot be accepted as an absolute proposition. In *Zakir Abdul Mirajkar (Supra)*, the Supreme Court held that the requirement of more than one charge-sheet concerns the organised crime syndicate and need not be satisfied separately against every person alleged to be its member. Nevertheless, the connection of the particular accused with the syndicate remains essential. Thus, the earlier cases against the alleged leader and other members may establish the statutory history of the syndicate, but the applicant's participation must still be examined from the material concerning him.

10. The learned Special Judge has referred to earlier charge-sheets against Kalim Chotu Qureshi and other accused. For the present consideration, even accepting that the prosecution has the requisite material concerning the alleged syndicate's earlier activities, that circumstance does not answer the separate question of the applicant's conscious involvement. The conclusion in *Shiva @ Shivaji Ramaji*

Sonawane (supra)that previous charge-sheets alone do not establish the offence under MCOCA must be understood in this sense. That decision does not dispense with the examination of the present activity or the particular accused's connection with it.

11. Turning to the material concerning this applicant, the FIR narrative identifies Sameer as the person questioned regarding the stock, its storage and the absence of purchase receipts. His explanation concerns the manner in which he and his associates obtained ration supplies and supplementary nutrition from beneficiaries. Although the applicant is named amongst the accused, that narrative does not describe him purchasing or exchanging the supplementary nutrition, removing it from Government packets, storing it or negotiating its sale. The allegation specifically identifying his work appears in the connected FIR, where Sameer is stated to have described him as their regular driver through whom grain was transported.

12. A driver who knowingly assists an organised crime syndicate cannot claim immunity merely because his assigned work is transportation. In the present case, however, the description of the applicant as a regular driver must be considered together with the material showing his knowledge and participation. The documents placed before the Court do not identify any particular journey undertaken by him carrying the supplementary nutrition seized in this crime or any transaction in which he knowingly assisted its diversion. Nor do they describe any payment or other circumstance connecting his

work as a driver with conscious participation in the alleged organised activity. These observations concern the strength of the accusation at the stage of bail and do not determine the applicant's defence finally.

13. The learned Special Judge has observed that the stock valued at Rs.1,31,200/- was found in the applicant's possession. That observation does not find corresponding particulars in the FIR narrative, which identifies Sameer as the person questioned at the premises. The general allegation of joint activity cannot, without examining the applicant's individual connection, be treated as a personal recovery from him. The seizure establishes the existence of the stock and provides material concerning its alleged diversion. Its quantity and Government origin, however, do not by themselves establish the applicant's knowledge or his membership of the alleged syndicate. On the material available, the allegation against him remains substantially dependent upon the role attributed to him as a driver, without sufficient supporting circumstances showing that he knowingly furthered the organised criminal activity.

14. The need to examine such individual connection is also reflected in the Supreme Court's order dated 27 October 2026 in ***Gulamgaus Nasruddin Mukadam v. State of Maharashtra***, arising out of Special Leave Petition (Criminal) Diary No.59067 of 2026. In that case, the Court granted relief where the implication under MCOCA rested upon a co-accused's disclosure without seizure or other material substantiating the allegation against the applicant. That order turns

upon its own facts, but it reinforces the distinction between an allegation made by another accused and material supporting the particular applicant's involvement.

15. The objections concerning prior approval and the precise control order alleged to have been contravened need not be decided conclusively in this application. Even proceeding on the basis that the invocation of MCOCA is procedurally valid and that the seized supplies were subject to the restrictions relied upon by the prosecution, the material concerning this applicant falls short of sufficiently connecting him with knowing participation in the alleged organised crime. The same consideration is relevant to the accusation of cheating and unlawful diversion. The applicant is not being granted bail merely because a particular document is not annexed to his application, but upon consideration of the role attributed to him in the FIRs and the prosecution material described in the order rejecting bail.

16. Upon considering that material as a whole, there are reasonable grounds, for the limited purpose of Section 21(4), for believing that the applicant is not guilty of the offences under the MCOC Act. This satisfaction rests upon the nature of his alleged role, the absence of a sufficiently supported connection between his work as a driver and the organised criminal activity, and the distinction between the recovery at the godown and the allegation against him individually. It is a tentative assessment for bail and does not amount to a finding that the prosecution cannot establish its case at trial.

17. The second statutory requirement also warrants consideration independently. The earlier charge-sheets discussed by the learned Special Judge principally concern the alleged leader and other accused. They cannot be treated as the applicant's personal antecedents. The other case disclosed against the applicant is Crime No.181 of 2026, registered in connection with the inspection of the same premises. Its registration cannot, without more, demonstrate a history of repeated offending by him. Considering his age, occupation, fixed residence, the limited role presently attributed to him and the absence of other identified antecedents in the available material, the Court is satisfied that he is not likely to commit an offence under the MCOC Act while on bail. Conditions restricting contact with the co-accused and witnesses and requiring regular attendance will further secure his conduct and availability.

18. The allegation of diversion of nutrition intended for children and mothers is undoubtedly serious. That seriousness must receive due weight, but it cannot substitute for the examination of the material against the individual seeking bail. The stock has been seized and samples have been drawn. The apprehensions concerning interference with the investigation and witnesses can, in the circumstances of this applicant, be addressed by appropriate conditions. Having independently considered both requirements of Section 21(4), as well as the ordinary considerations governing bail, the applicant deserves to be released. Hence, the following order:

ORDER

(i) The application is allowed.

(ii) Applicant Fardeen Gani Pathan shall be released on bail in Crime No.182 of 2026 registered with Jinsi Police Station, Chhatrapati Sambhajinagar, upon executing a personal bond of **Rs.50,000/- with one or two solvent sureties in the like amount**, subject to the following conditions:

(a) He shall attend the Investigating Officer on the first and third Saturday of every month between 10.00 a.m. and 12.00 noon for six months or until filing of the charge-sheet, whichever is earlier, and thereafter whenever called by written notice.

(b) He shall not directly or indirectly threaten, induce or influence any prosecution witness or tamper with the evidence.

(c) He shall not contact the co-accused, except as necessary for proceedings before the Court, or participate in any unlawful activity.

(d) He shall furnish his residential address and mobile number to the Investigating Officer and the Special Court and intimate any change promptly.

(e) He shall not leave India without prior permission of the Special Court and shall deposit his passport, if any, before that Court.

(f) He shall attend the proceedings before the Special Court unless exempted.

(iii) The observations in this order are confined to consideration of bail. The Special Court shall decide the case independently, uninfluenced by them.

(iv) The application stands disposed of.

(HITEN S. VENEGAVKAR, J.)

JPChavan