IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.2073 OF 2026

Vinod Shivaji Masalkar ... Applicant

Versus

The State of Maharashtra ... Respondent

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Shri N. B. Narwade, Advocate for the Applicant
Shri. V. S. Bade, Advocate for Assist to P.P.
Shri. V. K. Kotecha, APP for the Respondent / State.

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CORAM : HITEN S. VENEGAVKAR, J.

DATED : 03.11.2026

PER COURT :

1. The applicant seeks regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Crime No.1152 of 2026 registered with Pathardi Police Station, District Ahilyanagar, for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988. He was formally arrested on 20th September 2026 and is in judicial custody since 21st September 2026. His application for bail was rejected by the learned Special Judge (ACB), Ahmednagar, on 30th September 2026.

2. The prosecution states that the applicant was serving as a Police Constable at Pathardi Police Station. Tuship Nizam Shaikh alias Kalya runs Unique Hotel and Restaurant, where Pratap Salunke alias Bhavdya worked as a part-time helper. On 14th September 2026, an incident involving Pratap, his younger brother and a truck driver led to an assault in which injuries were sustained. According to the prosecution, on

17th September 2026 the applicant told Shaikh that a serious offence of attempt to murder and robbery would be registered against the persons involved and that Shaikh could also be implicated. The applicant allegedly demanded Rs.5,00,000/-, referring to his superior officer, for securing registration of a lesser offence, keeping Shaikh's name out of the case and helping in the investigation. The proposed favour concerned Pratap and Arbaz Pathan. The demand was allegedly reduced to Rs.2,15,000/-.

3. The prosecution further states that the Anti-Corruption Bureau was initially contacted through Babasaheb Vitthal Ghule, who thereafter introduced Shaikh as the person having the complaint. The proposed action on 18th September 2026 did not materialise. On 19th September 2026, Shaikh, Pratap and a panch witness were sent to meet the applicant with a voice recorder. The prosecution claims that the demand was verified during this meeting. A trap was thereafter arranged with Rs.1,00,000/- in currency notes treated with anthracene powder. Near the water tank adjoining Pathardi Police Station, the applicant allegedly accepted the amount while seated in Shaikh's vehicle. On the prearranged signal, the raiding party apprehended him and recovered the currency lying on his lap. The FIR was lodged by the Deputy Superintendent of Police of the Anti-Corruption Bureau on 20th September 2026.

4. Learned Advocate for the applicant submits that the prosecution has arisen from the grudge entertained by Babasaheb Ghule, against whom the applicant had lodged Crime No.750 of 2026 under the Maharashtra Prohibition Act on 18th June 2026. He relies upon that FIR and the earlier corruption complaint in Crime No.416 of 2025 to question Ghule's role in bringing about the present trap. He submits that Shaikh was interested in protecting his employees and avoiding his own implication. According to him, the amounts in the recorded conversation were spoken by Shaikh, while the words attributed to the applicant were ambiguous and did not disclose a clear demand. He also points out that the applicant did not call Shaikh on 18 September 2026 and that the money was found on his lap inside Shaikh's vehicle, rather than recovered from his hand or pocket. He submits that conscious acceptance is disputed and that the possibility of the money having been placed upon the applicant requires consideration.

5. Learned Advocate for the applicant further submits that the applicant was only a Constable and was not empowered to decide which offences should be registered. He points to the interval between the applicant being taken into custody at 4.04 p.m. on 19 September 2026, registration of the FIR at 8.59 a.m. on the following day and formal arrest at 10.08 a.m. He submits that the police custody granted has been utilised, the voice samples have been obtained, the mobile phone has

been seized and the applicant has been questioned about his assets. The remaining investigation does not require his detention. He also relies upon the medical papers concerning diabetes and insulin treatment, the absence of criminal antecedents, the applicant's fixed residence and his willingness to cooperate and accept restrictions against contacting witnesses.

6. Learned APP opposes the application on the grounds reflected in the prosecution's written objections and the submissions recorded by the Special Court. The prosecution relies upon verification of the demand, the panch witness, the recorded conversation and recovery of Rs.1,00,000/- during the trap. It contends that, the applicant misused his position as a Police Constable to seek money for shielding persons involved in a serious crime and invoked the name of his superior officer. The investigation is pending and the Charge-sheet had not been filed when the application was presented. The prosecution apprehends that the applicant will use his local contacts and police position to pressurise Shaikh and other witnesses, destroy evidence and obstruct the investigation. It also raises an apprehension about his attendance at trial and submits that release would send a wrong message to society.

7. I have considered the rival contentions and the material placed on record. The accusation is serious. It concerns an alleged attempt by a police constable to obtain money in return for influencing the manner in which a criminal case would be registered and investigated. The

prosecution has placed reliance on a verification exercise, a recorded conversation, a panch witness and recovery of the treated currency. These circumstances provide prima facie support for the accusation and cannot be disregarded merely because the applicant disputes the meaning of the conversation or the manner in which the money came to be on his lap. At the same time, their ultimate evidentiary value and the defence of false implication must be examined at trial.

8. The submission that the applicant was not competent to select the penal provisions does not, by itself, exclude Section 7. The provision extends to obtaining or accepting an undue advantage for causing another public servant to perform or forbear a public duty improperly, and its explanation covers abuse of position or personal influence over another public servant. The allegation must therefore be considered in its entirety. Likewise, the earlier FIR against Ghule establishes the background on which the plea of animosity rests, but neither that FIR nor his earlier corruption complaint establishes that this trap was fabricated. His role, Shaikh's interest in the underlying case and the disputed conversation are matters for evidence. It is unnecessary to accept those defences as proved in order to consider whether further custody is required.

9. On that question, the prosecution's own reply dated 30th September 2026 is material. It records that the applicant was

interrogated, that his voice sample and those of the complainant and a witness were obtained before panchas, that a detailed panchanama concerning the seized mobile phone was prepared and that the applicant's statement regarding his property was recorded. The currency had already been recovered. The order dated 21st September 2026 further records that the investigating officer herself sought judicial custody. Thus, the material directly arising from the alleged trap has been secured and the steps requiring the applicant's immediate custodial participation have substantially been undertaken. This does not mean that the investigation is complete or that the charge-sheet has been filed. It does, however, require the Court to examine what further detention would achieve. The pending examination of witnesses and collection or scrutiny of records can proceed with the applicant on bail, subject to his continued cooperation and effective restrictions.

10. The apprehension of interference deserves particular attention because the applicant belongs to the police force and the complainant and other private witnesses are local persons. It would not be correct to say that all the material witnesses are official witnesses or are beyond his influence. Nevertheless, the objections placed on record do not identify any attempt by him to threaten a witness or interfere with the evidence after the trap. The investigation is being conducted by the Anti-Corruption Bureau, and the seized currency, recordings and mobile phone are in the investigating agency's custody. A prohibition against

contacting the witnesses or entering Pathardi Taluka for a limited period, coupled with attendance before the Anti-Corruption Bureau, will sufficiently address the apprehension at this stage. Applicant's fixed residence and absence of criminal antecedents, also recorded by the Special Court, support the conclusion that attendance can be secured by appropriate conditions.

11. In *Mahesh Chandra Joshi v. State of Rajasthan, 2026 INSC 1141*, decided on 16th October 2026, the Supreme Court reiterated that gravity cannot eclipse the other considerations governing bail and considered whether secured evidence and suitable conditions made further detention unnecessary. That decision involved completed investigation, longer custody and other circumstances which are not present here in the same form. The present application is therefore being decided on its own facts, particularly the steps already recorded by the investigating officer and the means available to protect the pending investigation. The offence under Section 7 of the Prevention of Corruption Act carries imprisonment of three to seven years and fine. The Act does not prescribe a separate restrictive test for regular bail in this case. The seriousness of police corruption requires careful scrutiny, but does not create an absolute bar to bail or justify detention merely to express society's disapproval.

12. The medical prescription dated 16 July 2026 records an HbA1c value of 11.3 and prescribes insulin. It supports the submission that the

applicant requires regular diabetic care, although the material does not establish that treatment cannot be provided in custody. The medical condition is consequently an additional consideration and is not the sole basis for release. As regards the challenge concerning the period preceding formal arrest, the initial remand order records that the objection was raised and considered. Since the applicant is entitled to regular bail on the grounds discussed above, no determination of the legality of that detention is necessary for the present decision. That contention is left open.

13. The learned Special Judge placed considerable emphasis on the applicant being a police constable, the gravity of corruption and the possibility of interference while investigation was pending. Those concerns are relevant, but must be weighed with the steps already completed and the possibility of protecting the investigation through conditions. On an overall consideration, further detention is not necessary for that purpose. The applicant can be released on regular bail with conditions directed specifically at securing his attendance and preventing access to the witnesses and the records. Hence, the following order.

ORDER

(i) Bail Application No.2073 of 2026 is allowed.

(ii) The applicant, Vinod Shivaji Masalkar, shall be released on bail in connection with Crime No.1152 of 2026 registered with Pathardi Police

Station, District Ahilyanagar, for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988, on furnishing a personal bond of Rs.50,000/- with one or two solvent sureties in the like amount, to the satisfaction of the Special Court, unless his custody is required in any other case.

(iii) The applicant shall attend the office of the Anti-Corruption Bureau, Ahilyanagar, on the first and third Monday of every month between 10.00 a.m. and 12.00 noon for three months or until filing of the charge-sheet, whichever is earlier, and thereafter as and when called upon by written notice. He shall cooperate with the investigation.

(iv) Until framing of the charge, the applicant shall not enter Pathardi Taluka, except to attend court and attend the Police station for attendance. He shall not access or cause alteration of any official record connected with the case.

(v) The applicant shall not directly or indirectly contact, threaten, induce or pressurise the complainant, Babasaheb Ghule, Pratap Salunke, Arbaz Pathan, the panch witnesses or any other prosecution witness concerning the case. He shall not tamper with the prosecution evidence or use his official position or any intermediary to obstruct the investigation or trial.

(vi) Before release, the applicant shall furnish his residential address and mobile number to the investigating officer and the Special Court and shall intimate any change in writing. He shall not leave India without prior permission of the Special Court and shall attend the trial regularly unless exempted by that Court.

(vii) In the event of breach of any condition, the prosecution may seek cancellation of bail in accordance with law.

(viii) The observations in this order are confined to the decision on bail. The Special Court shall decide the case on the evidence, uninfluenced by these observations.

(ix) The Bail Application is disposed of in above terms.

(HITEN S. VENEGAVKAR)
JUDGE

GGP