



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 2458 OF 2025

AKSHAY SANJAY HAKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Chaitanya C. Deshpande
APP for Respondent : Mr. G. O. Wattamwar

...
WITH
BAIL APPLICATION NO. 2573 OF 2025

RAHUL @ VICKY SHARAD KOKANE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Samadhan H. Jadhav
APP for Respondent : Mr. G. O. Wattamwar

...
AND/WITH
BAIL APPLICATION NO. 1795 OF 2025

KISHOR @ APPA GULAB PATIL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Samadhan H. Jadhav
APP for Respondent : Mr. G. O. Wattamwar

...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 02-02-2026

PER COURT:-

1. The applicants seek regular bail in connection with Crime No.67 of 2020 dated 18.07.2020 registered with Mohadi-nagar Police Station, District Dhule, for the offences punishable under

Sections 302, 120B, 201, 143, 147, 148, 149, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3 and 25 of the Arms Act, 1959 and Sections 3(1)(i), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999. In the said crime, the applicants, accused No.7/Akshay, accused No.22 Rahul @ Vicky and accused Kishor were arrested on 22.07.2020, 30.11.2020 and 20.08.2020.

2. The previous applications presented by the applicant bearing Bail Applications No. 615 of 2020, 1395 of 2021, 1716 of 2021, 1286 of 2022 and 1814 of 2023, were dismissed by the orders of this Court, dated 09.09.2020, 01.04.2022, 12.01.2022, 21.12.2022 and 12.12.2022, respectively.

3. The prosecution case is that on 17.07.2020, accused Akash had abused the deceased and assaulted Rushikesh, friend of complainant, at the hotel of the deceased. On 18.07.2020 at about 12.00 noon, Rushikesh was admitted in Deore Hospital, Dhule. The complainant along with Rahul, Bansi, Shubham and Ravindra went to see the Rushikesh in the hospital and thereafter, they returned to the hotel of the deceased. At about 1.30 p.m. while they were taking tea at the hotel, the accused persons named in the first information report along with three to four unknown persons approached the said hotel on motorcycles. They parked motorcycles opposite the hotel and started abusing the

deceased. Accused Akash was armed with koyta, accused Rahul and Ganesh were armed with country made pistol and accused Karan and Ajay were armed with iron rod, accused Sunil was armed with knife and started proceeding towards deceased giving abuses. The accused persons were having firearms with them opened fire from the pistols. The complainant hide himself in a hotel situated by the side of the road, informed the incident to Rahul, brother of the deceased, and the companions started running towards backside of the hotel. The complainant seen that the accused accosted the deceased near a bridge situated by the side of the road near Desan Cold Storage and assaulted and caused serious injuries to he deceased by means of weapons available with them, thereafter, accused ran away on their motorcycle.

The complainant and his companions, Shubham, Bansi, Ravindra went near the Rahul and saw him lying in pool of blood having sustained grievous injuries. The deceased was taken to the Civil Hospital, Dhule. The Medical Officer declared the deceased dead. Hence, the report is lodged.

4. Learned counsel for the applicants submits that no prima facie case exists, as the applicants are not visible in the CCTV footage of the incident, indicating their non-involvement. It is contended that several co-accused have already been enlarged on bail, including Ajay Uttam Bhandare and Akshay Sanjay Chaugule

by this Court (BA/1383/2021 on 29.08.2022 and BA/1004/2025 on 07.08.2025), and Hemant @ Vicky Sanjay Hake, Mahendra Sharad Kokane, Sunny Thorat, Mohit Manass, Rahul Baviskar, Deepak Raju Koli, and Dnayneshwar @ Kenya Kadhare by the Sessions Court between 01.10.2022 and 25.11.2025. Although co-accused Akshay played a major role by allegedly firing at the deceased and a pistol was recovered from him, the present applicants have no overt acts attributed to them, and nothing has been recovered from their possession.

5. It is further submitted that the applicants have been in jail for over five years, facing what amounts to pre-trial conviction while the trial proceeds at a snail's pace with no witnesses examined to date. As the investigation is complete and the chargesheet is filed, and since the applicants have no criminal antecedents, it is argued that the provisions of MCOC are not attracted. The counsel emphasized that the applicants are not a flight risk, will not tamper with evidence, and deserve bail solely on the grounds of long incarceration and the principle of parity, as juvenile accused with similar roles have also been released.

6. The learned APP strongly opposed the application, contending that the accused were part of an unlawful assembly armed with deadly weapons, including a koyta, pistols, and iron rods, specifically targeting the deceased in broad daylight. He

submitted that the delay in the supplementary statement is immaterial given the gravity of the brutal assault and the specific roles attributed in the FIR. Furthermore, the provisions of MCOC are squarely attracted due to the organized nature of the crime, and the mere fact that some co-accused were granted bail on parity does not diminish the individual involvement of the present applicants. Hence, prayed for the rejection of the bail application to ensure the integrity of the trial.

7. Having heard the respective counsel from both the sides and upon perusal of the material on record, including the charge sheet indicates that the trial has commenced and the investigating agency recorded statements of several witnesses, which are to be examined during the trial. At this stage, it would be premature and legally improper to engage in detail as to the reliability of those statements. The merits of the bail application must be weighed strictly against the *prima facie* case established on the basis of evidence collected during the investigation, the eventual chargesheet and the statutory bar under the special enactment that in the instant case, weigh heavily against the applicant.

8. The Honourable Apex Court, in the case of **Kalyan Chandra Sarkar and Ors. Vs. Rajesh Ranjan and Ors. [(2004)7 SCC 528]**, while laying down the guidelines for grant or refusal of bail in serious offences like murder, has observed as under :

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh and Puran v. Rambilas.)

12. In regard to cases where earlier bail applications have been rejected there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the court is of the opinion that bail has to be granted then said court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted.”

9. Similarly, the Honourable Apex Court, in the case of ***Pralhad Singh Bhati vs. NCT, Delhi [(2001)4 SCC 280]***, held that on satisfaction of prima facie evidence establishing the guilt of the accused, the bail can be denied.

10. The Honourable Apex Court, in the case of **Ram Govind Upadhyay vs. Sudarshan Singh [(2002)3 SCC 598]**, has held that a judicial discretion in granting bail must not be exercised whimsically, especially in heinous offences.

11. Equally, the Honourable Apex Court, in the case of **State of UP through CBI Vs. Amaramani Tripathi [(2005)8 SCC 21]**, has held that the Court must evaluate the *prima facie* evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused.

12. The Honourable Apex Court, in the case of **Prasanta Kumar Sarkar Vs. Ashis Chatterjee [(2010) 14 SCC 496]**, has held that the mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be considered, including reasonable ground for belief in guilt, nature of evidence and possibility of justice being thwarted.

13. Apart from the aforesaid aspect, the accused persons are charged with offences punishable under Sections 147, 148, and 149, read with Section 302 of the Indian Penal Code. All the accused persons, with common intention, attacked and assaulted the deceased with deadly weapons, including a country-made pistol, koyta, and iron rod. Thus, it is difficult to decipher at this stage which specific accused caused the fatal injury to the person.

When the accused are charged for offences punishable under Section 149 of the IPC and their presence is established as part of an unlawful assembly, the individual role and/or overt act of each accused is neither significant nor relevant. This aspect is no longer *res integra* in light of the judgment of the Honourable Apex Court in the case of ***Manno Lal Jaiswal vs. The State of Uttar Pradesh and another, Criminal Appeal No. 97 and 98 of 2022, dated 25.01.2022.***

14. In light of the aforesaid facts and settled legal precedents, it is *prima facie* evident that this was a broad daylight murder executed with precision, where the *prima facie* complicity of the present applicants is clearly established. Although the applicant claims a clean record, the appropriate authority has duly granted sanction under the MCOC Act; as such, the stringent rigors of Section 21(4) of the Act squarely apply. The record *prima facie* indicates a clear nexus between the applicant and the organized crime syndicate.

15. The plea of parity raised by the learned counsel for the applicant does not hold water in the eyes of the law. While it is true that certain co-accused were enlarged on bail, several among them were juveniles, whose cases are governed by distinct reformatory principles under the Juvenile Justice Act.

16. Apart from the ground of parity, which has been addressed,

the applicants have failed to raise any fresh or compelling change in circumstances. Considering the gravity of the offense and the ongoing testimony of witnesses, the risk of tampering with the remaining prosecution evidence remains a significant concern.

17. Accordingly, the bail applications are rejected.

[SACHIN S. DESHMUKH]
JUDGE

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