



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.2505 OF 2025

Akshay s/o Balasaheb Wavre,
Age: 24 years, Occ. Driver & Agri.,
R/o. Malegaon, Yedetade Vasti,
Tal. Bharamati, Dist. Aurangabad

..Applicant

Versus

1. The State of Maharashtra,
Through Superintendent of Police
Ahmednagar.
2. The Ghargaon Police Station,
Ghargaon, Tal. Sangamner,
Dist. Ahmednagar.

..Respondents

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Mr. U.S. Patil, Advocate for the Applicant.
Mr. B.B. Bhise, APP for Respondent-State.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : MARCH 07, 2026.

PRONOUNCED ON : MARCH 27, 2026.

FINAL ORDER:-

1. The applicant seeks regular bail in connection with Crime No.402 of 2024 dated 11.11.2024 registered with Police Station Ghargaon, District Ahmednagar for offenses punishable under section 310(2), 61(2) of Bharatiya Nyaya Sanhita, 2023 and under Section 25 (3) r/w 7 of Arms Act 1959.
2. The investigation was set in motion on the basis of information given by one Sanket Subhash Lolage stating that on 11.11.2024, he was on his jewelry shop namely "Kanha Jewelers". At about 01.30 p.m., he was attending customer namely Thamaji,

suddenly, five unknown persons holding firearms whose faces were masked entered in shop. they threatened him and customer on gunpoint and removed gold ornaments showcased in racks. One of them mounted on counter and removed gold and silver ornaments mounted on wall. Three of them collected goods in a bag and ran away from shop. They fired thrice to create terror while leaving shop and flee away on two motorcycles. The cost of golden ornaments is stated to be Rs. 52, 41,600/-.

3. The investigation progressed. It was revealed that accused nos.1 to 9 conspired together for commission of offence. Accused No.9 was called from Punjab. The applicant accused alleged was holding pistol. He removed gold ornaments by mounting beyond counter. On completion of investigation, charge sheet has been filed for offences punishable under section 310(2), 61(2), 49 of Bharatiya Nyaya Sanhita, 2023 r/w 3(25), 7(25) and 27 of Arms Act. Lastly, provisions under The Maharashtra Control of Organised Crime Act, 1999 ('MCOC Act' for short), are invoked and additional charge sheet for offences punishable under section 3(I)(II), 3(2), 3(4) have been filed.

4. The applicant moved an application for grant of regular bail below Exhibit-18 in Sessions Case No.17 of 2025, which came to be rejected vide order dated, 12.08.2025. Hence, this application.

5. Mr. U.S. Patil, learned advocate appearing for applicant submits that evidence in charge sheet is bereft to make out any offence

against applicant. The applicant was not named in FIR. He has been implicated only because of alleged criminal antecedents. The Sessions Court has already enlarged accused Swapnil Yede, Yogesh Kadale and Sunil @ Neil Vijay Chavan on bail. The applicant deserves parity with them. Mr. Patil would submit that applicant is behind bar since 12.11.2024. The investigation is complete and charge sheet is filed. The offence is not punishable with death or life imprisonment. There is no recovery of any incriminating article from applicant.

6. Per contra, Mr. Bhise, learned APP submits that applicant has been identified by informant in identification parade. Further, there are criminal antecedents and as many as 10 similar cases are pending against applicant. He is habitual offender. He is likely to repeat similar offences. The provisions of MCOC Act are involved. The confession of co-accused is recorded under Section 18 by following due process. The co-accused has elaborated role of applicant depicting his active involvement in commission of offence. He would, therefore, urge to reject application for bail.

7. Having considered submissions advanced by learned advocates appearing for respective parties and on perusal of material in charge sheet, it is apparent that incident in question took place in daylight at about 01.30 p.m. at a jewelry shop. Five accused persons entered in shop holding pistols in their hands and removed gold and silver ornaments worth Rs.52,41,600/-. While leaving shop, three

rounds were fired in air. In all 9 accused persons have been identified as conspirators along with applicant.

8. It is true that name of none of accused is mentioned in FIR, however, applicant/accused came to be arrested on 12.11.2024 i.e. on next day of incident. The supplementary statement of informant suggests that he had seen faces of accused persons while they were leaving shop. The identification of applicant is made by informant. Although, evidence in form of identification parade is shaky, fact remains that co-accused Surjit @ Manna Harjit Singh recorded his confessional statement before Additional Superintendent of Police under section 18 of MCOC Act. He has specifically highlighted role of applicant. Since inception applicant conspired to commit offence. He made available a stolen motorcycle and proceeded along with two accused persons towards jewelry shop. He removed golden ornaments from showcase mounted on wall and put in a bag, thereafter, fled away on motorcycle.

9. It is true that confessional statement has been retracted by accused Surjit before Magistrate, however, it is well settled that, even retracted confessional statement can be relied upon in given set of facts and merely because confession has been retracted by accused, it cannot be ignored at time of considering application for grant of bail. *Prima facie*, this Court finds that confessional statement is recorded by following procedure contemplated under section 18 of MCOC Act.

10. Apart from aforesaid circumstances, this Court cannot be oblivious of the fact that applicant is accused of 11 similar offences which are pending trial or investigation. Most of the offences are serious or much less similar to present one. Although three accused persons from this crime have been released on bail, role attributed to them is not comparable with applicant. The applicant seems to have actively participated in commission of offence. The accused who are enlarged on bail are stated to be inactive conspirators.

11. In result, this Court do not find merit in application. Hence, bail application stands rejected.

(S. G. CHAPALGAONKAR, J.)