

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
APPEAL NO.972 OF 2025**

Sohel Siraj Shaikh

.....Appellant

Vs.

The State Of Maharashtra And Anr

.....Respondents

Mr. Ramanik P. Pawar with Mr. Samadhan Mahamulka, Mr. Parvej Nadaf, Mr. Tabrez Mursal, Mr. Amit Wykool, Mr. Dinesh Sonalikar, Mrs. Dhanashree Jagdagale, Ms. Subhangi Kadam, and Mr. Rahul Gupta i/b Ms. Arti Bajpai, for the Appellant.

Mr. Ramesh Sadashiv Mane, SDPO Jaysingpur, Office.

Mr. Shriram S. Chaudhary, APP, for the Respondent-State.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATED : 24th FEBRUARY 2026

PC.:-

1. The Appellant has been arrested in C.R. No. 125 of 2018 registered with Gaonbhag Ichalkaranji Police Station for the offences punishable under Sections 302, 143, 144, 147, 148, 149, 201 and 120-B of the Indian Penal Code, 1860; Section 4/25 of the Arms Act, 1959; Sections 37(1)(A) and 135 of the Maharashtra Police Act, 1951; and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999.

2. It is the case of the prosecution that the Appellant, along with

other co-accused, followed the deceased who was riding his motorcycle. It is alleged that the accused persons were aggrieved as the deceased had refused to join their gang and was instead informing the police about their activities. It is further alleged that four to five accused were armed with sharp-edged weapons and assaulted the deceased.

3. The prosecution relies upon two eye-witnesses. Both the eye-witnesses have stated that the present Applicant, along with other co-accused, had caught hold of the deceased and that the Applicant was not armed with any weapon. One eye-witness, namely Raju Patil, has specifically attributed a role to the Applicant by stating that the Applicant had held the hand of the deceased while the co-accused assaulted him with sharp-edged weapons. The other eye-witness has not attributed any specific overt act to the Applicant, except for his presence at the spot.

4. The learned counsel appearing for the Appellant submits that this Court has granted bail to a co-accused having a similar role. At the relevant time, the trial had commenced and two to three witnesses had already been examined. It is therefore contended that

the principle of parity is applicable to the present Appellant, as the role attributed to him is identical.

5. It is further submitted that though provisions of the MCOC Act have been invoked against the Appellant, there are no criminal antecedents against him and there is non-compliance of Section 23(2) of the MCOC Act. The Appellant has been incarcerated for the last seven years and nine months.

6. Reliance is placed on the judgment of the Hon'ble Apex Court in *Dr. Gokarakonda Naga Saibaba v. State of Maharashtra*, wherein despite a large number of witnesses being cited and some of them having been examined, bail was granted. Hence, the Appellant prays for his release on bail on the grounds of parity and prolonged incarceration.

7. The learned APP opposes the Application, submitting that out of 74 witnesses cited by the prosecution, 60 witnesses have already been examined and about 15 to 17 witnesses remain to be examined. It is submitted that the trial has substantially progressed.

8. It is further contended that the Appellant was in regular contact with the gang leader and that for invocation of the provisions of the MCOC Act, prior criminal antecedents against the Appellant are not necessary. It is submitted that an offence under the MCOC Act can be registered even in the first crime, provided the accused is acting in concert with an organised crime syndicate. In the present case, as many as seven crimes are registered against the gang leader.

9. Considering the stage of the trial and the brutality of the offence, the learned APP prays for rejection of the Application. It is also noted that the Advocate appointed through Legal Aid is not present before the Court today.

10. Heard the learned counsel appearing for the respective parties.

11. Considering the role attributed to the present Appellant and that of the co-accused having a similar role, who was released on bail by this Court on 24th January 2024, it is evident that at the relevant time only three to four witnesses had been examined. While granting bail to the said co-accused, this Court had considered the role attributed to him and the statements of the eye-witnesses.

12. While considering the application under the provisions of the MCOC Act in the said case, this Court had also taken note of the fact that no criminal antecedents were reported against the said co-accused. The position is identical in the present case. This is the first offence registered against the Appellant and there are no criminal antecedents reported against him.

13. Having regard to the observations made by the Hon'ble Apex Court in the case of Dr. Gokarakonda Naga Saibaba (*Supra*) and considering that the ground of parity is clearly available to the Appellant, coupled with the fact that though the trial has commenced, about seventeen witnesses are yet to be examined, the prolonged incarceration of the Appellant is sufficient to dilute the rigours of Section 21 of the MCOC Act.

14. In view of the long incarceration, the role attributed to the Appellant, the principle of parity, and the infringement of the Appellant's right under Article 21 of the Constitution of India, a case is made out for granting bail. Hence, the following order:

ORDER

- i) Appeal is **allowed**.
- ii) The Appellant, namely Sohel Siraj Shaikh, shall furnish personal bond of **Rs.50,000/-** with his recent self-attested photograph and surety of the like amount on the following conditions at the satisfaction of the Investigating Officer;
- iii) The Appellant shall attend the concerned police station on every Friday between 11.00 a.m. to 01.00 p.m.;
- iv) The Appellant shall cooperate with the investigation and make himself available for interrogation whenever required;
- v) The Appellant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any Police Officer;
- vi) The Appellant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- vii) The Appellant shall maintain law and order;
- viii) The Appellant shall, at the time of execution of the

bond, furnish his residential address and contact number to the Investigating Officer, and the Court concerned, and shall not change the residence till the final disposal of the case;

xi) The Appellant shall surrender his passport, if any, before the Investigating Officer within a week and, if he does not possess any passport, he shall file an affidavit to that effect before the Investigating Officer;

xii) The Appellant shall regularly remain present during the trial, and cooperate with the Hon'ble Court to complete the trial for the above offenses.

xiii) The Appellant shall not to enter the jurisdiction of Ichalkaranji except attend the trial.

(MRS. VRUSHALI V. JOSHI, J.)