

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 129 OF 2026

Ajay Bapu Kamble

VERSUS

The State of Maharashtra And Anr.

...

Mr. Umesh H. Pawar, Advocate for Applicant.

Mr. P. P. Deokar, APP for the Respondents-State.

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CORAM : SACHIN S. DESHMUKH, J.

DATE : 27<sup>th</sup> APRIL, 2026

P. C. :

1. The applicant seeks regular bail in connection with C.R. No. 281 of 2020 dated 04.09.2020 registered with Sangli City Police Station, District Sangli, for the offences punishable under Sections 307, 143, 148, 149 of the *Indian Penal Code*, Sections 4 and 25 of the Arms Act, Sections 37(1) & 37(3) of the Maharashtra Police Act, 1951 and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999.

2. The case of the prosecution is that, on 03.09.2020 in the evening, the complainant's brother Rakesh called the complainant and informed him that he had been released from jail and was presently at Walmiki Aawas, and requested that his nephew be sent

to bring him home. Accordingly, the complainant asked nephew to bring Rakesh at home. Thereafter, one Anil Waghmare called the complainant and informed him that some persons had assaulted Rakesh on his head, as a result of which he had become unconscious, and that nephew had taken him to Sangli Civil Hospital. When the complainant reached the hospital, he found Rakesh unconscious. Upon making inquiry with nephew informed that when he had gone to Walmiki Aawas, Rakesh was having discussion with the present applicant and the other co-accused. At that time, co-accused - Ramjan told Rakesh that they would return after going to a dumper parked nearby, whereupon Rakesh accompanied them. Thereafter, Avinash heard the cries of Rakesh and rushed towards the dumper, where he saw the co-accused holding Rakesh, while the present applicant assaulted Rakesh with a sword. The assault was allegedly on account of non-distribution of the proceeds of crime. Hence, the report came to be lodged with the concerned Police Station.

3. The learned counsel for the Applicant submits that the applicant is falsely implicated in the crime. The provisions of MCOC Act are not attracted against the applicant. Considering the nature of

injuries, the offence under Section 307 of IPC is not made out. The co-accused are released on bail by this Court. Given the prolonged incarceration of the applicant and the possibility of delay in trial, further detention of the applicant is unjustified.

4. Per contra, the learned APP vehemently opposed the application, submitting that the applicant is the gang leader and has further expressed an apprehension that if the applicant is released on may he may influence or threaten the witnesses and also highlighted in as much 24 criminal antecedents.

5. Having heard the submissions from both the sides and upon perusal of the record including charge-sheet *prima facie* indicates that the applicant is a leader of a gang operating in the area. The injured was purportedly one of the members of the group run by the applicant and on account of misappropriation of the proceeds of crime, the applicant along with co-accused attempted to murder the deceased.

6. 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.)*

7. Similarly, the Hon’ble Apex Court in 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.

8. The Honourable Apex Court in 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.

9. Equally, the Hon’ble 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.

10. 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.

11. In view of the aforesaid precedents, further perusal of the record indicates that the applicant using a sword has assaulted the deceased on the head with an intent to kill by uttering that “he would not leave him alive” to the injured. The said aspect is corroborated by the statement of the eye witness and is further substantiated by the recovery of the alleged weapon and corresponding injuries to victim. Given the prior enmity, there is *prima facie* motive on the part of the applicant.

12. Pursuant to the order of this Court, the trial Court has submitted the status report, wherein it is indicated that successive filing of bail applications has resulted into delay.

13. In light of the aforesaid report by the trial Court, it is prima facie evident that the delay so caused in the trial is deliberate and intentional on the part of the accused person, in tandem, so as to protract trial. Thus, the specious plea of delay in trial is not available to the applicant. Nonetheless, The Hon'ble Apex Court in case of **State of Bihar Vs. Amit Kumar [(2017)13 SCC 751]**, has held that delay especially in cases involving serious offences, cannot by itself be a ground for bail.

14. Apart from aforesaid aspect, the registration of in as much as 24 offences alone is sufficient to deny the relief.

15. Considering the totality of the facts and circumstances, I am of the considered opinion that the provisions of MCOC Act are attracted against the applicant. As such, the apprehension expressed by the learned APP is well founded, given that the key witnesses are yet to be examined. As such I am not inclined to exercise in discretion in favour of the applicant at this stage.

16. Resultantly, the Application stands rejected.

17. Needless to state that the observations rendered herein are to the extent of decision of this application and the trial Court shall not be influenced by the same.

[SACHIN S. DESHMUKH, J.]