Sharada

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3863 OF 2026

Rakesh Ramesh Burate .. Applicant

Versus

The State of Maharashtra .. Respondent

SHARADA RANGNATH WAHULE

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- Mr. Harshwardhan M. Pawar, Advocates for Applicant.
- Mr. Ashish Agarkar i/b Abid Molani, for the Original Complainant.
- Mr. Yogesh Nakhawa, APP for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 13, 2026

P.C.:

1. Heard Mr. Pawar, learned Advocate for Applicant, Mr. Agarkar, learned Advocate for Original Complainant and Mr. Nakhawa, learned APP for Respondent.

2. This is an Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking bail in connection with C.R. No.413/2020 registered with Bundgarden Police Station for offences punishable under Sections 302, 34, 120-B, 201, 212 of the Indian Penal Code, 1860 Section 3(25) Arms Act and Sections 3(1)(i), 3(2), 3(4) of the MCOC Act.

3. The Applicant is arraigned as Accused No. 8 in the present case. Accused Nos. 1, 2, 3, 5 and 7, are alleged to be the principal

perpetrators of the crime and Accused No.4 has shot the victim in broad daylight. Except Accused No.4 and Applicant all others have already been enlarged on bail. The Applicant has been incarcerated for more than six years. Therefore, the Applicant's case deserves to be considered for the grant of bail even otherwise on the ground of long incarceration pending trial apart from parity and role.

4. ***PER CONTRA***, Mr. Agarkar, learned Advocate appearing on behalf of the Complainant, would submit that the Complainant had lost her husband in broad-daylight killing, allegedly committed pursuant to a contract killing, and therefore she deserves an opportunity to be heard fully. He would submit that Respondent No.2 - Complainant had not been served with a copy of the present Application, notwithstanding the fact that Complainant has appeared before this Court through Advocate and made his submissions fully.

5. He would submit that the provisions of the Special enactment, namely Maharashtra Control of Organised Crime Act (MCOCA), were applicable to the present case and all accused persons. In order to apprise the Court of the status of trial, he would apprise the Court that only two out of the 20 witnesses cited by the prosecution have been examined and that the remaining witnesses are yet to be examined. He would therefore contend that Complainant deserved an opportunity to file her affidavit-in-reply to oppose the present Bail

Application. He would submit that, Complainant's locus having been established, she ought to be served with a copy of the Bail Application and that this Court should pass an appropriate order, if necessary, only after affording her an opportunity of being heard.

6. The learned Public Prosecutor, Mr. Nakhawa, has supported the submissions advanced by the learned Advocate appearing for Original Complainant. He would submit that, in view of the applicability of the Special Act to the accused persons, they do not deserve any leniency. He would further contend that the present case involved a contract killing allegedly executed by the accused persons pursuant to hatching a conspiracy, which, according to the prosecution, was established.

7. I have heard the submissions advanced by the learned Advocates and have given due consideration to the rival contentions. I have also perused the record of the case with the able assistance of the learned Advocates. I have heard Mr. Agarkar at length

8. Upon *prima facie* consideration of the material on record, it is seen that Accused No. 3 had allegedly instructed Accused No. 7 to execute the contract killing of the victim, and that Accused No. 7 had, in turn, approached Accused No. 4 in connection with the execution of the crime. As regards role of Accused Nos. 1, 2 and 3 and the present Applicant, Applicant - Accused No. 8 is concerned, the allegation is that

they were involved in the conspiracy. The specific role attributed to Accused No. 8 is that he had conducted reconnaissance of the spot where the killing was to be carried out and had supplied the necessary information to the other co-accused persons.

9. However, having regard to the principle of parity, and considering that Accused Nos. 1, 2, 3, 5 and 7 have already been enlarged on bail, I am inclined to consider the Applicant's case favourably on this ground as also the ground of prolonged incarceration. The Applicant has been in custody for more than six years, and this circumstance deserves due consideration while deciding the present Bail Application.

10. Mr. Agarkar has vehemently submitted that prolonged incarceration ought not to be considered a ground for the grant of bail and that the length of custody, by itself, cannot be the sole ground for enlarging the Applicant on bail, irrespective of the time that the prosecution may require to complete the trial. I do not agree with the submissions of Mr. Agarkar and reject them.

11. Hence, in view of above *prima facie* observations and findings, Bail Application of Applicant is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be immediately released from prison in connection with CR. No.413 of 2020;

(ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like amount;

(iii) Applicant shall report to the Investigating Officer at concerned Police Station, once every month, on the first Monday of the month between 10:00 a.m. to 12:00 p.m. until commencement of trial and thereafter shall attend all dates of hearing before the Trial Court;

(iv) Applicant shall cooperate with the conduct of the trial and remain present before the Trial Court on all dates, unless specifically exempted. Applicant shall not seek unnecessary adjournments. Any such conduct shall entitle the prosecution to apply for cancellation of bail;

(v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vi) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(vii) Applicant shall keep the Investigating Officer informed of his current residential address and mobile telephone number and shall forthwith inform the Investigating

Officer of any change in his residential address or mobile telephone number, as and when such change occurs; and

(viii) Any breach or infraction of any of the aforesaid conditions shall entail cancellation of the bail granted to the Applicant.

12. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

13. Bail Application is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]