

Shubhada S Kadam

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4527 OF 2024

Anil Tukaram Mohite

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ashok Mundargi, Senior Advocate along with Mr. Zaid Anwar Qureshi
i/b. Mr. Jayant Bardeskar, Advocate for Applicant.

Ms. Veera S. Shinde, APP for Respondent-State.

Mr. Sanjeev Kadam, Senior Advocate along with Mr. Sachin Pawar,
Advocate for the Intervenor.

PSI-K. N. Balip, Chinchwad Police Station, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 25th FEBRUARY, 2026.

P.C. :

1. The applicant is seeking regular bail in C.R.No. 548 of 2022 registered with Chinchwad Police Station, District -Pune, for the offences punishable under Sections 115, 120-B, 307, 341, 392, 143, 144, 147, 148, 149, 504, 506(2), 465, 468, 471 and 201 of Indian Penal Code, 1860, Sections 3 and 25 of the Arms Act, Sections 3 and 7 of Criminal Law Amendment Act and Sections 3(1)(ii) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (for short “the MCOCA”).

2. It is prosecution’s case that on 6th December 2022 at around 5:30 pm, accused No.1-Shahrukh Shaikh and two unknown persons came in front of the house of the first informant and threatened him as to why

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his brother's name was implicated in the crime and abused him. One person, who was possessing pistol, slapped Kiran Hiwale (tenant of first informant) and forced him to switch off the CCTV camera of his shop. Those three accused abused and scuffled with the first informant and one of them fired shot from pistol in the air. Thereafter, accused No.3-Farukh Shaikh came to the spot and co-accused person again fired from the pistol near public toilet and fled from the incident spot in the autorikshaw. The first informant identified one person viz. accused No.1-Shahrukh Shaikh. It is alleged that the applicant had hired those four persons who had visited the house of the first informant to kill the intervenor-Santosh Mohite.

3. It is contention of learned senior counsel for the applicant that the allegations against the applicant are of conspiracy. During the investigation of the case lodged by the first informant, police arrested four persons, and it transpired that the applicant had hired them to kill the intervenor, but no offence was committed as per the say of the applicant. The applicant is behind bars for almost 2 years and 11 months. Though MCOCA is applied against the applicant, learned senior counsel for the applicant submits that to attract the provisions of MCOCA, no material is produced on record to show that the applicant hired the four co-accused persons to kill the intervenor and requested to allow the application.

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4. It is contention of learned APP that the applicant has 20 antecedents and MCOCA is applied against him. He had hired the co-accused to kill the intervenor. The statement of accused No.2-Shoeb Alvi under Section 27 of the Indian Evidence Act has been recorded, and in the said statement, he has stated that they had brought weapons for committing murder of the intervenor - Santosh Mohite and the contract was given by applicant over a property dispute. If the applicant is released on bail, he may indulge in similar activities, and requested to reject the application.

5. It is contention of learned counsel for the intervenor that the applicant had hired the co-accused to kill the intervenor. As per the statement recorded under Section 18 of the MCOCA of co-accused-Sagar Malik, he has stated that the applicant had hired them to kill the intervenor. As per the provisions of MCOCA, the applicant is not entitled for bail as he has antecedents and he may commit further offences, if he is released from jail, and requested to reject the application. He relied on following judgment and order :

1. *Jayashree Kanabar versus State of Maharashtra and ors. (2025) 2 SCC 797.*
2. *Dharmesh Nitin Shah versus The State of Maharashtra in Bail Application No.5396 of 2024 dated 31st July 2025 (Coram : Amit Borkar, J.)*

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6. I have heard all learned counsel, perused charge sheet and documents produced on record. The FIR is lodged by Pratap Singh Khairariya alleging firing at his house by the co-accused. In the investigation of the said crime, police came to know that the applicant had hired the co-accused to kill the intervenor. The intervenor has not filed any complaint. The allegation against the applicant is of conspiracy.

7. Perusal of the statement of co-accused-Sagar Malik @ Michael shows that the applicant had not told him about the murder of the intervenor, whereas one Mr. Manish told him that they had taken a contract to kill one person, but the name of the intervenor is not mentioned in the said statement. In his statement, it is mentioned that co-accused – Shoeb Alvi told him about the contract to kill the intervenor. The police has recorded the statement of co-accused Shoeb Alvi, but in the said statement, he has not stated about involvement of applicant in crime. To prove the allegations against the applicant, trial is required. The applicant is behind bars for almost 2 years and 11 months. As the allegations against the applicant are of conspiracy and to prove the allegations, evidence is required. I have gone through the cases cited by the learned Senior counsel for the intervenor. The facts of the cited cases and the present case are different, hence, not applicable.

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8. In view of above, I pass following order :

ORDER

- (i) The applicant be enlarged on bail in C.R.No. 548 of 2022 registered with Chinchwad Police Station, District -Pune, on executing P.R.Bond in the sum of Rs.30,000/- each with one or two sureties in the like amount.
- (ii) The applicant shall attend the concerned police station as and when required.
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

The application is allowed in the aforesaid terms and is accordingly disposed of.

9. Learned counsel for the intervenor seeks stay to the order of this Court. This Court has decided the matter on merit, hence, request is rejected.

10. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

11. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)