

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.6289 OF 2025

Sagar Subhash Gavasane @ Maratha,]
R/o. Thergaon, Pune City, Pune] .. Petitioner

Versus

1. The State of Maharashtra,]
Through Kothrud Police Station, Pune]
2. The Additional Commissioner of Police,]
West Region, Pune City, Pune] .. Respondents

Mr. Nikhil S. Kamble, Advocate for the Petitioner.

Mr. K.V. Saste, Additional Public Prosecutor for the Respondents.

**CORAM : SHREE CHANDRASHEKHAR, C.J. &
GAUTAM A. ANKHAD, J.**

DATE : 29TH JANUARY 2026.

PER, GAUTAM A. ANKHAD, J.

The petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking anticipatory bail in connection with C.R. No.239 of 2025 dated 4th September 2025 registered with Kothrud Police Station, Pune.

2. It is the petitioner's case that an offence was registered under sections 308(4), 351(3), 352, 3(5) of the Bharatiya Nyaya Sanhita, 2023 (in short, "BNS") and under sections 3 and 25 of the Arms Act, 1959 read with sections 3 and 7 of the Criminal Law (Amendment) Act, 2013 with the Kothrud Police Station, Pune. The petitioner filed Anticipatory Bail Application No.6394 of 2025 before the Sessions Court which was rejected on 10th October 2025. The petitioner then

filed Anticipatory Bail Application No.2980 of 2025 which was withdrawn on 12th November 2025 without a hearing on merits, since the provisions of sections 3(1)(ii) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (for short “MCOC Act”) were added to the FIR. It is in this background that the jurisdiction of this Court has been invoked stating that there is no other efficacious or alternate remedy once offences under the MCOC Act are added.

3. Mr. Nikhil Kamble, the learned counsel for the petitioner submits that the petitioner has been wrongly arrayed as an accused and the allegations in the FIR even if taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the petitioner. The learned counsel submits that the petitioner is a businessman by profession and is engaged in running of a hotel under the name “Maitri” in Pune city. He is also an active participant in the Maratha reservation morcha and an active social worker extending assistance to the persons belonging to backward and marginalized community. He submits that the complainant and accused no.1 in the FIR, namely, Mr. Santosh Dhumal are distinct relatives of the petitioner. Due to personal enmity, the petitioner has been falsely implicated in the FIR to settle personal scores against the petitioner and accused no.1.

4. We have heard Mr. Kamble, the learned counsel for the petitioner and Mr. Saste, the learned Additional Public Prosecutor who opposes this petition placing reliance on an affidavit dated 6th November 2025 filed by B.G. Patare, Assistant Commissioner of Police, Kothrud Division, Pune in Anticipatory Bail Application No.2980 of 2025.

5. We have perused the FIR lodged by the complainant/ Rohit Vitthal Akhade who is a relative of the petitioner and accused no.1. In

the FIR it is stated that approximately fifteen days prior to 3rd September 2025, a video call was received by the complainant on his Instagram Id from the accused no.1, where the accused no.1 along with accused no.2 threatened the complainant and demanded Rs.10 lakhs. While making the threat, the said accused displayed a weapon resembling a pistol. At that time, the complainant immediately disconnected the call. Then again on 3rd September 2025 at about 11:05 p.m. at his residence in Pune, the complainant received a call on his Facebook Messenger Account ID on his mobile phone ([www.Facebook.com/rohit.akhade.946](https://www.facebook.com/rohit.akhade.946)) made from the Facebook Account of the accused no.2-Vipul Majiro. The complainant was abused and soon thereafter another call was received where the complainant was asked to step outside his house and if the sum of Rs.10 lakhs was not paid, the accused no.1 would shoot the complainant. On account of these calls, the complainant stepped out of his house. At that point, the complainant observed that accused nos.1 and 2 along with the petitioner who is accused no.3 and some unknown persons were standing near the Gurujan Society Road, behind Guruttam Ganpati Mandal area, Pune. The accused no.1 displayed an object resembling a pistol and together with his companion shouted threatening words and indicated that they were armed. As a result of the threats, the nearby residents were frightened. The complainant was also scared and telephoned his relative to immediately come to his rescue. By the time his relative came, all the accused had left and the complainant proceeded to register his complaint with the Kothrud Police Station, Pune.

6. Mr. Kamble, the learned counsel submits that the case is *mala fide* and the petitioner was not present at the time of the alleged incident. He submits that the incident is alleged to have occurred on 3rd September 2025 and that the petitioner was not present at the

crime scene as alleged in the FIR. He submits that on 2nd September 2025 the petitioner was in Mumbai and actively participating in Maratha protests. The petitioner also availed of taxi services of Sai Tours and Travels for his travel from Pune to Navi Mumbai during the period from 2nd September 2025 to 5th September 2025. The petitioner had booked an accommodation at Hotel Shikin located at Navi Mumbai for his stay during the entire period. After participating in the Maratha Morcha on 2nd September 2025, the petitioner returned to Shikin Hotel, Navi Mumbai using the same taxi service. The CCTV footage of Shikin Hotel establishes that the petitioner checked into the hotel on 3rd September 2025 at 00:45 a.m. and remained there until 6th September 2025. The footage further establishes that at 12:07 a.m. on 3rd September 2025, the petitioner is seen coming down from his hotel room to the reception counter via the lift to make payment for his food. This is also backed by the the invoices for the taxi services, hotel bills and the bank statements which establishes that the petitioner was not present at the alleged crime scene on 3rd September 2025. Despite the petitioner's willingness to cooperate in the investigation, the Investigating Officer has not issued any notice to the petitioner under section 35(3) of the BNSS Act. Recently, the complainant himself has been booked in two separate criminal cases by the Kothrud Police Station. The invocation of MCOC Act against the petitioner is politically motivated at the instance of a local MLA and Minister in the present Government. We are unable to accept these submissions. The affidavit dated 6th November 2025 filed by the Assistant Commissioner of Police *inter alia* states that during the course of investigation, statements of witnesses have been recorded. The investigation reveals that the accused no.1 is a gang-leader and runs an organized crime syndicate. He along with the gang-members have committed offences of dacoity, extortion with

kidnapping, murder, threatening, riot, grievous assault etc. within the vicinity of Kothrud District, Pune. Several proceedings have been filed against accused no.1 and criminal antecedents are enumerated in detail in the said affidavit. The petitioner is one of the members of the aforesaid gang and he was present along with his accomplices at the time of crime. Whilst the CCTV footage may show the applicant's presence at Shikin Hotel at 12:45 a.m. on 3rd September 2025, it is apprehended and so stated in the affidavit that there must be a dummy person either on the spot or either in the hotel, which is being investigated. The affidavit states that the witnesses have confirmed the petitioner's presence on the crime scene on 3rd September 2025. At this stage, there is sufficient material to proceed against the petitioner. Considering the activities of organized crime syndicate, the provisions of MCOC Act have been invoked against the petitioner.

7. It is settled law that application of the provisions of MCOC Act does not in any manner infringe upon the fundamental rights of the accused. The stress on the unlawful activities under the Act is if they are committed singly or jointly as a member of an organized crime syndicate. There is no allegation in the present matter that due process for grant of approval or sanction before the concerned authority before invoking MCOC Act has not been followed. It is well settled that the jurisdiction under Article 226 of the Constitution of India is to be exercised most sparingly and in criminal matter only in rare and appropriate cases in extreme circumstances. This Court cannot exercise jurisdiction and entertain bail applications in respect of an accused indicted under a special Act like the MCOC Act. It cannot be converted into a second window for the relief that is consciously denied statutory relief. Whether or not the petitioner was present at the alleged crime scene or was at the Shikin Hotel is a matter of investigation. The MCOC Act is enacted to make special

provisions for prevention and control of criminal activities by organized crime syndicate. The petitioner, complainant and the other accused are related to each other. There are criminal antecedents as eleven offences have been registered against the petitioner. The statement of the petitioner that he was not present at the crime scene on 3rd September 2025 cannot be accepted at its face-value as this would then result in effectively quashing of the FIR and scuttling the investigation which is still under progress. The allegation in the FIR if accepted in its entirety records that the petitioner was present at the crime scene on 3rd September 2025 along with the other co-accused. Thus, in our view, this is not a case where the powers under Article 226 of the Constitution of India can be exercised to entertain this petition for grant of anticipatory bail under the MCOC Act. Consequently, Writ Petition No.6289 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]

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