

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1066 OF 2025  
WITH  
INTERIM APPLICATION NO. 1098 OF 2025

Mohsin Nasim Shaikh

...Applicant

*Versus*

State of Maharashtra

...Respondent

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**Mr. Milan Desai**, *for the applicant.*

**Ms. Poonam P. Bhosale**, *APP for the Respondent-State.*

**None** *for the Applicant in IA/1098/2025.*

**Mr. Nalawade**, *ASI attached to Ghatkopar Police Station,  
present.*

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**CORAM DR. NEELA GOKHALE, J.**

**DATED: 9<sup>th</sup> FEBRUARY 2026**

**PC:-**

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 76 of 2021 dated 10<sup>th</sup> February 2021 registered with the Ghatkopar Police Station, Mumbai, initially for the offences punishable under Sections 302, 307, 450, 143, 145, 147, 148, 149, 506(ii), 427 read with Section 34 of the Indian Penal Code, 1860 ('IPC' for

short); Sections 4 and 25 of the Arms Act; Sections 37(1)(a) and 135 of the Maharashtra Police Act, 1951. Subsequently, provisions of Sections 3(1)(i), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 ('MCOC Act') were applied.

2. It is the case of the prosecution that the case papers, panchanamas, statements, and other material on record *prima facie* disclose that all the accused persons are active members of an organised crime syndicate headed by Accused No.1, namely, Ramjan Nasim Shaikh @ Babla. According to the prosecution, the Applicant along with eight other accused persons form part of the said organised crime syndicate, found to be indulging in continuous unlawful activities, during the preceding ten years, and more than one charge-sheet has been filed against the members of the syndicate, particularly against the gang leader, before the competent Court.

3. As regards the present incident, it is alleged that on 9<sup>th</sup> February 2021 at about 9.30 p.m., when the Complainant,

Abdul Karim Yakub Shaikh, was proceeding towards the house of his sister near Machhi Galli, Sanjay Nagar, Kalina, Accused No.1 along with other Co-accused accosted him on the way by grabbing his hand. They were sitting in the lane on their parked two-wheelers. It is alleged that Accused No.1 and another Co-accused caught hold of the Complainant, whereupon the Complainant raised shouts and contacted his friend, seeking assistance. Accused No.1 had left but returned to the spot along with his cohorts, namely Taufik, Mohsin (the present Applicant), Salman Kallu and Sultan, who were allegedly armed with swords and choppers.

4. The elder brother of the Complainant, namely Kayyum, also arrived at the spot. It is alleged that Accused No.1 and Taufik surrounded Kayyum and assaulted him with a chopper, causing him to fall on the road. When the Complainant attempted to assist his brother, the Applicant along with Accused No.1 and Taufik allegedly struck the Complainant on his head, hands and legs using swords and choppers. As a

result of the assault, the Complainant sustained injuries, whereas Kayyum succumbed to the injuries and died. The FIR was registered and the Applicant was arrested on 21<sup>st</sup> February 2021.

5. The Applicant filed an application seeking bail before the Special Judge, City Civil & Sessions Court, Greater Mumbai. However, by order dated 23<sup>rd</sup> April 2024, his bail application came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

6. Mr. Milan Desai, learned counsel appearing for the Applicant, submits that the Applicant has been falsely implicated and has no connection with the alleged offence. He also submits that a counter-case is registered against the Complainant vide C.R. No. 77 of 2021 for offences including Section 307 of the IPC. According to him, both sides alleged use of weapons and sustained injuries, and the incident arose out of a dispute concerning a slum area. He further points out that the injury certificate of the Complainant indicates that

the injuries were simple in nature. It is also submitted that the Applicant is in custody since 2021 and that charges are framed only recently. Reliance is placed on CCTV footage, which according to the learned counsel, shows that the Applicant arrived at the spot approximately 20 minutes after the initial assault. On these grounds, he prays that the Bail Application be allowed.

7. *Per contra*, Ms. Poonam Bhosale, learned APP representing the State in the matter, brings to my attention the affidavit dated 16<sup>th</sup> April 2025 affirmed by the Assistant Commissioner of Police, Ghatkopar Division. She submits that the Applicant has as many as five criminal antecedents (including the present offence), all relating to bodily offences and offences under the Arms Act. She further submits that the Applicant is an active member of the organised crime syndicate headed by Accused No.1. She relies upon CCTV footage to demonstrate the presence of the Applicant at the scene of offence, and also on the confessional statements of

Co-accused, recorded in accordance with law, which disclose the role attributed to the Applicant. Additionally, she submits that the material collected during investigation indicates the active participation of the Applicant in the crime. The Chemical Analyser's report is positive and the bloodstains found on the clothes of the Applicant match the blood group of the deceased. On these grounds, she opposes the Bail Application.

8. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

9. Section 21(4) of the MCOC Act imposes stringent conditions for grant of bail and stipulates as under:

***“21. Modified application of certain provisions of the Code.-***

***(1) XXXX***

***(2) XXXX***

***(3) XXXX***

***(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this***

*Act shall, if in custody, be released on bail or on his own bond, unless—*

*(a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and*

*(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”*

10. Thus, the Court must be satisfied that there are reasonable grounds for believing that the Applicant is not guilty of the offence alleged for grant of bail. Upon perusal of the affidavit filed by the Assistant Commissioner of Police, it is evident that the Applicant has four antecedents relating to offences involving bodily injuries, connected with members of the alleged organised crime syndicate. This *prima facie* indicates the Applicant's association with the syndicate headed by Accused No.1 and his knowledge of their activities.

11. Although, Mr. Desai submits that the Applicant has reached the spot of incident 20 minutes late, there are statements of witnesses including that of the Complainant

himself, supported by the injury certificate that the Applicant, along with two Co-accused, were armed with choppers, swords and cement paver-blocks and assaulted the Complainant with the said weapons. These items were recovered and, thus *prima facie*, the role of the present Applicant stands established at this stage.

12. In the matter of **Ranjitsing Brahmajeetsing Sharma Vs. State of Maharashtra and Anr.**<sup>1</sup>, while interpreting the provisions of Section 21(4) of the Act, the three Judge Bench of the Supreme Court observed as under:

*"43. Section 21(4) of MCOCA does not make any distinction between an offence which entails punishment of life imprisonment and an imprisonment for a year or two. It does not provide that even in case a person remains behind the bars for a period exceeding three years, although his involvement may be in terms of Section 24 of the Act, the court is prohibited to enlarge him on bail. Each case, therefore, must be considered on its own facts. The question as to whether he is involved in the*

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**1** (2005) 5 SCC 294

*commission of organised crime or abetment thereof must be judged objectively. ...*

44. *The wording of Section 21(4), in our opinion, does not lead to the conclusion that the court must arrive at a positive finding that the applicant for bail has not committed an offence under the Act. If such a construction is placed, the court intending to grant bail must arrive at a finding that the applicant has not committed such an offence. In such an event, it will be impossible for the prosecution to obtain a judgment of conviction of the applicant. Such cannot be the intention of the legislature. Section 21(4) of MCOCA, therefore, must be construed reasonably. It must be so construed that the court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. Similarly, the court will be required to record a finding as to the possibility of his committing a crime after grant of bail. However, such an offence in future must be an offence under the Act and not any other offence. Since it is difficult to predict the future conduct of an accused, the court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence."*

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46. *The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like MCOCA having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby."*

13. The papers on record clearly establish the role of the present Applicant in assaulting the injured victim by a chopper. According to Mr. Desai, the Applicant came to the spot approximately 20 minutes post assault on his brother Kayyum. However, the CCTV footage and the statements of the witnesses demonstrate that the

Applicant along with other accused assaulted the First Informant with chopper, sword and a paver-block. The association of the Applicant with Accused No.1 and others is also demonstrable by antecedents.

**14.** Considering the role of the present Applicant in the present offence coupled with his association with the organized crime syndicate headed by Accused No.1-Ramjan, I am unable to record a finding that the Applicant has not committed any offence under the MCOC Act. However, the said observations are tentative and only in respect of the Applicant, based on material before me at this stage.

**15.** Insofar as the second part of the embargo of Section 21(4) of the MCOC Act regarding the possibility of the Applicant committing and repeating such an offence, considering that the Applicant has four antecedents relating to the similar offences and in association with the

Co-accused, I am also unable to hold that the Applicant is unlikely to commit such offences in future.

**16.** Bearing in mind the above broad legal principles and material *qua* the Applicant before me, at this stage, the embargo under Section 21(4) of the MCOC Act squarely applies and considering the same, I do not find the present case fit for grant of bail. I hasten to record however, that the findings recorded in the present order are only *prima facie* observations recorded for the limited purpose of grant of bail and examining the case in the light of Section 21(4) of the MCOC Act.

**17.** Considering that the Applicant is in custody since 21<sup>st</sup> February 2021 and that charges are framed on 1<sup>st</sup> December 2025 and in view of the statement of Ms. Bhosale, on instructions of the Investigating Officer, that recording of evidence is to commence today itself and that the prosecution proposes to examine not more than thirty

witnesses, the Trial Court is requested to expedite the trial.

18. The Bail Application is accordingly rejected and disposed of along with interim application therein.

**(DR. NEELA GOKHALE, J)**

SHAMBHAVI  
NILESH  
SHIVGAN

Digitally signed by  
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