

Navnath Waghmare (RA)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3809 OF 2025

Vikram Vijay Bhutekar	...Applicant
<i>Versus</i>	
The State Of Maharashtra	...Respondent

Mr. Pankaj D. Kavale, Raj D. Dali Abhishek A. Satpute for the Applicant.

Mr. Mahesh Mule SPP, Nidhi Narwekar, PC. Kiran Gaikwad Katkar
Dadar Railway Police Station for the Respondents.

Mr. H.J. Dehdia, APP for the Respondent-State.

CORAM: R. M. JOSHI, J.

DATED: 27th MARCH, 2026

PC:-

1. It is high time, that the Courts are required to distinguish between genuine cases of long incarceration and the trial being not proceeded for reasons attributable to the Accused persons. Without considering this issue and unless facts of case justify the grant of bail, whether only on the ground of long incarceration bail can be granted more particularly when apparent concerted acts are seen from accused before the Trial Court to ensure that the Trial is not

commenced, or even if it commences does not get over in reasonable time and ground of long incarceration is created.

2. Present applicant is seeking bail in connection with CR. No. 286 of 2021 registered at the instance of GRP Dadar Railway Police Station for the offence punishable under Sections 387, 392, 195(a), 506(2), 507, 120(b) 384, 385, 212 224, 420 of Indian Penal Code and Sections 37(1)(3), 135 of the Maharashtra Police act, r/w Sections 3(2) 3(3), 3(4) and 3(5) r/w 4 of the MCOC Act, 1999.

3. In short it is case of prosecution, that the accused persons are running a gang for extortion money from street vendors on 07.04.2021 at about 2:30 PM. accused no.1 went to the informant and questioning him for not paying the extortion amount. When he resisted, he was abused and assaulted by the accused no.1. On the basis of said incident First Information Report came to be lodged. The allegation against the present applicant is that after the report was lodged, he threatened the informant to withdraw the complaint. Supplementary statement came to be recorded of the informant to that effect.

4. During the course of the investigation, agency found this to be an organized crime and hence, provisions of MCOC Act came to be made applicable.

5. During the investigation statements number of witnesses came to be recorded indicating that the accused collecting extorted money from the street vendor. On conclusion of investigation chargesheet is filed. Since Trial Court rejected the application for present bail application.

6. Learned counsel for the appellant submits that applicant is in jail for a period of 4 years and 7 months and considering the fact that trial is not likely to be heard in reasonable time, he is entitled for bail. He further argues that the offence charged against the applicant even if accepted under the MCOC Act is punishable with minimum sentence of 5 years. He further submits that there is no allegation against the applicant that he participated in the extortion or assaulted the informant. According to him, the alleged role against the applicant that he threatened the complainant to withdraw the complaint lodged against the accused no.1. Learned counsel for the applicant submits that co-accused persons are granted bail by this Court vide order dated 21.04.2025. Thus, on

merits so also on the ground of long incarceration, he seeks enlargement of applicant on bail.

7. In response thereto, Learned APP submits that the role attributed against the present applicant is different than the one alleged against the co-accused. Learned APP further opposed the application by contending that *prima-facie* there is evidence on record indicating that there is well thought design on the part of the accused person not only in commission of the crime but also to ensure that trial is not proceeded further. By relying upon Rozanama of the trial Court proceeding it is argued that there is ample material on record to indicate that jointly all accused including applicant have succeeded in not allowing trial to be commenced. It is pointed out that on number of occasions the counsel for the applicant remained absent before the Trial Court and hence delay is attributable to the applicant too.

8. This submission is opposed by the counsel for the Applicant pointing out that in fact the made an application in the year 2022 for framing of the charge which shows that he never intended to delay the trial. Apart from this it is submitted that the number of dates of hearing are pointed out from the time bail application was

filed by the applicant, which was pending and that on account of absence of the counsel, no adjournment was required to be granted by the Court below.

9. At the outset it needs to be mentioned that there are statements of witnesses showing involvement of the applicant in the crime may not be at the stage of the commencement of the crime when the informant was assaulted and threatened for extortion. The provisions of MCOC Act are made applicable to the present case and as such the Court is required to consider as to whether *prima-facie* it could be seen that the offence in question has been committed by the syndicate for the criminal and is a organized crime. Needless to say that the acts done by the applicant though after the commission of the offence in question, are altogether different from the role of co-accused and hence, question of application of parity does not apply. suffice it to say that there is *prima-facie* material on record against applicant to show his complicity in the crime under MCOC Act.

10. When the applicant/accused seeks bail on the ground of long incarceration, it is bounden duty of court to see, that long incarceration has been on account of the delay, on account of

prosecution or acts attributable to the accused person. More particularly when provisions of MCOC Act are made applicable, in appropriate case it could be believed that all accused persons are acting concertedly. *Prima-facie* perusal of roznama indicates that there is reason to believe that there was well designed attempt on the part of the accused person to ensure trial is not commenced. Here in this case there is no material on record to indicate that for reasons attributable to prosecution or even owing to pendency in trial Court, the trial has not commenced. On the contrary there is reason to accept contention of prosecution that the delay is solely attributable to the accused including applicant. Applicant cannot be permitted to delay trial and then make grievance of long incarceration. Considering these facts and circumstances of the case, applicant is not entitled for bail.

11. Hence, application stands dismissed.

(R. M. JOSHI, J.)