

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL (ST) NO. 24141 OF 2025
WITH
INTERIM APPLICATION NO. 4414 OF 2025
IN
CRIMINAL APPEAL (ST) NO. 24141 OF 2025

Salim alias D Badshaha Babu Tamboli

...Appellant/
Applicant

Versus

The State of Maharashtra

...Respondent

Mr Manoj Badgujar, for the Appellant.
Mr RM Pethe, APP, for the Respondent.

CORAM: R. M. JOSHI, J.

DATED: 14TH JANUARY 2026

PC:-

1. This Appeal takes exception to the Judgment and Order dated 5th July 2023 passed in MCOC Case No. 6 of 2017, whereby the learned Special Judge under the MCOC Act convicted the Appellant as well as the-Accused for the offence punishable under Section 397 read with 34 of IPC and sentenced them to undergo Rigorous Imprisonment for ten years and further to pay fine of Rs. 1,00,000/- each and in default simple imprisonment of six months. They were also convicted for the offence punishable under Section 341 r/w 34 of the IPC and sentenced to suffer Rigorous Imprisonment for three months with fine of Rs. 1,000/-

and default sentence. They, however, were acquitted for the offence punishable under Sections 3(1)(ii) and 3(4) of the Maharashtra Control of Organised Crime Act 1999 (“**MCOC Act**”).

2. It is the case of the prosecution that Ganesh Bhandalkar, resident of Malegaon, working as driver, lodged complaint to the police station with regard to the incident occurred on 11th September 2016. According to the informant, at 0.20 hours, he along with the cleaner Sikander Shaikh left Baramati in Escher 1059 bearing registration No. MH-42-M-3725. When they reached near Pawarwadi area, Saswad, two unknown persons who came on motorcycle intercepted their vehicle. The vehicle driven by the informant therefore stopped. The said person assaulted the informant. Both were armed with sickle. When the informant tried to obstruct them, they assaulted him with sickles, causing bleeding injuries. The said persons took cash of Rs. 3,500/-, wrist watch and mobile phone from cleaner. The Informant gave description of the assailants at the time of recording the report.

3. On the basis of such report, crime was registered vide No. 182 of 2016. The offence came to be investigated into. During the course of investigation, it was revealed that the Accused No. 1, i.e., Appellant herein is a leader of a gang running organised crime syndicate and having committed similar offences. In view of the same, provisions of MCOC Act were made applicable to the case. Charge-sheet came to be filed before the competent Court. Charge is framed against the accused persons vide Exhibit -23 as they did not plead guilty, they were tried. Prosecution led

evidence in order to prove the charge against them and examined following 13 witnesses.

1.	PW-1	Dhanaji Pawar	Exhibit-29
2.	PW-2	Ganesh Bhandalkar	Exhibit-31
3.	PW-3	Prakash Jadhav	Exhibit-33
4.	PW-4	Mahesh Kharat	Exhibit-37
5	PW-5	Yogesh Arjun Phadatare	Exhibit-38
6.	PW-6	Dr Prachi Uttarwar	Exhibit-48
7.	PW-7	Swapnil Gaikwad	Exhibit-52
8.	PW-8	Rajesh Malegave	Exhibit-54
9.	PW-9	Sikandar Shaikh	Exhibit-61
10.	PW-10	Vishwas Nagare patil	Exhibit-64
11.	PW-11	Sureshsing Gaud	Exhibit-66
12.	PW-12	Bipinbihari Singh	Exhibit-70
13.	PW-13	Ashok Bharte	Exhibit-72

4. On conclusion of the evidence of the prosecution, incriminating circumstances were put to the accused person. Learned Trial Court convicted the accused for the offences under IPC though recorded acquittal for offences under MCOC Act.

5. Learned counsel for the Appellant submits that the Appellant does not wish to go into the merits of the conviction. However, he seeks parity on the basis of the Judgment of this Court dated 22nd July 2025, passed in Criminal Appeal No.694 of 2024 filed by Rohan Nage, co-Accused. Learned counsel for the Appellant submits that having regard to the fact that the Appellant has already undergone substantial period of sentence imposed

upon him, this is a fit case for sentencing him for the period already undergone in the custody with reduction of fine as per the above order.

6. Learned APP opposed the said contention by submitting that as recorded by the learned Trial Court in the impugned Judgment, there are nine different offences registered against the present Appellant and out of which, he was convicted in some of the the crime. Thus, it is his submission that no parity can be applied in t favour of the Appellant.

7. There cannot be made dispute with regard to the fact that the role alleged against the present Appellant and the co-Accused is identical. This Court in the Judgment dated 22nd July 2025 had dealt in detail the evidence led by the prosecution and upheld the conclusions arrived at by the learned Trial Court recording conviction against the Accused persons. The result of the said Judgment also indicate that there cannot be any differentiation in the roles played by both accused in this crime. Now there cannot be any different view expressed by this Court on the same evidence which was considered at the time of deciding appeal arising from impugned judgment and order. Moreover, the said judgment is not take exception before Supreme Court. The findings on the fact recorded therein bind this Court.

8. Now question arises as to whether the Appellant would not be entitled for parity on the ground that there are other offences registered against him and that he was convicted in some of those

offences. It is pertinent to note that there were offences against the co-Accused too. Apart from the said fact, the co-Accused has been released from jail pursuant to order dated 22nd July 2025, whereas present Appellant has undergone six months more sentence as compared to the co-Accused. This Court therefore finds no reason not to apply parity.

9. Hence, following order:

ORDER

- (a) The Appeal is partly allowed.
- (b) The conviction of the Appellant for commission of offence punishable u/s 397 r/w 34 as well as u/s 341 r/w 34 of the Indian Penal Code, passed by the Additional Special Judge under MCOC Act, Pune, in MCOC Case No.6 of 2017, vide the Judgment and Order dated 5th July 2023, is maintained. However, the sentence is modified as under:
 - (i) For commission of offence punishable u/s 397 r/w 34 of the Indian Penal Code, the Appellant is sentenced to suffer rigorous imprisonment for the period he has undergone from 11th September 2016 in custody till today.

- (ii) The Applicant shall pay fine of Rs.5,000/- and in default of payment of fine, he shall suffer simple imprisonment for 15 days’.
- (iii) The sentence of three months and payment of fine of Rs.1,000/- and in default payment of fine to suffer simple imprisonment for 15 days’ for commission of offence punishable u/s 341 r/w 34 of the Indian Penal Code, is maintained.
- (iv) The substantive sentences are directed to run concurrently.
- (v) The Appellant is entitled for set off u/s 428 of Cr.P.C.
- (vi) The Appeal is disposed of.

10. In view of disposal of the Appeal, Interim Application also stands disposed of.

(R. M. JOSHI, J.)