

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3774 OF 2025

Chetan Dilip Paradhi ...Applicant
Versus
State of Maharashtra ...Respondents

WITH
INTERIM APPLICATION NO.128 OF 2026
IN

BAIL APPLICATION NO. 3774 OF 2025

Shehzeen Ziauddin Siddique ...Applicant /
Intervenor
Versus
State of Maharashtra _____ ...Respondents

Mr. Ameya Pitale, for the Applicant.

Mr. Mahesh Mule, Special PP. alongwith Nidhi Narvekar a/w
Parth Gawde, for the Respondent.

Mr. Arfan Sait, APP for the Respondent-State.

Mr. Abad Ponda, Sr. Advocate a/w Anas Shaikh i/by Neha
Balani, for the Intervenor/Applicant in IA/128/2026.

Mr. Sadanand Rane, ACP from DCB,CID Mumbai, Present.

CORAM: R. M. JOSHI, J.
RESERVED ON: 04th MAY, 2026.
PRONOUNCED ON: 07th MAY, 2026.

PC:-

1. The Applicant seeks his release on bail in connection with CR No.86 of 2024 registered with DCB CID (earlier CR No.589 of 2024 registered with Nirmal Nagar Police Station) for offence punishable under Sections 103(1), 109, 125, 3(5), 336(2), 337, 238, 61(2) of the Bharatiya Nyaya Sanhita, 2023 read with

Sections 3, 5, 25, 25(6), 25(7)(i), 25(8), 25(9) and 27 of the Arms Act, 1959, Sections 37(1)(a), 135 of the Maharashtra Police Act, 1951 and Sections 3(1)(i)(ii), 3(2), 3(3), 3(4) of the Maharashtra Control of Organised Crime Act, 1999.

2. In short it is the case of the prosecution that on 12th October, 2024, at about 09:30 p.m. when Baba Siddiqui visited his son's office at Bandra (E), the unknown persons opened fire at him. In the said firing he sustained injuries and succumbed thereto. At the spot of the incident Accused Nos.1 and 2 who said to have opened fire attempted to flee but were unsuccessful. During the course of investigation role of different accused persons was revealed and in all 27 accused came to be arrested. The provisions of MCOCA also made applicable. On conclusion of investigation, charge-sheet is filed.

3. The Applicant seeks bail on the ground of false implication in the crime. He claims that irrespective of the fact that the offence has been registered under the MCOCA the Applicant is entitled for bail. It is claimed that there is no material in the charge-sheet to show that the Applicant was the member of the organized crime syndicate and has committed the present crime. It is further contended that though mobile phone is shown to have been recovered at the time of arrest of the Applicant, there is no incriminating material found therein. It is also claimed that though at the time of seizure of the mobile phone no SIM card had been seized. Later on, the prosecution has sought to rely upon the CDR dated 23rd December, 2024 attributing the mobile number to the present Applicant. It is also claimed that even if it is presumed that

the Applicant was in contact with the co-accused Pradip, Sambhaji and Nitin, without any further evidence brought on record by the prosecution, it is not sufficient to establish nexus with the organized crime. It is claimed that the previous acquaintance with these co-accused persons make the call detail records do not become incriminating material against the Applicant. Insofar as the use of the vehicle on 15th August, 2024 is concerned, it is claimed that the Applicant had taken the same vehicle for the purpose of celebrating birthday of his wife and there is no call detail record with regard to the Applicant being seen along with the co-accused as claimed in the confessional statement of the co-accused. On these amongst the other contentions the Applicant seeks bail.

4. Learned counsel for the Applicant submits that though it is alleged against the Applicant that he aided and abetted in commission of crime, there is no evidence in order to *prima facie* indicate so. It is his submission that the confessional statement of Shivakumar, does not get further corroboration from any other material on record. He drew attention of the Court to the CDR placed in the charge-sheet, which according to him does not show presence of the Applicant and co-accused together. In fact, according to him, what is being seen from the said record is that the mobile phone of the Applicant was switched off at the material time. Thus, it is his submission that there is no evidence in order to hold that the Applicant was with the co-accused. He sought to take exception to the statement of Shiva, co-accused on the ground that the certificate appended to the said confessional statement does not bear date and time as required by the rules framed under the MCOCA. It is argued that the statement of driver of the WagonR

car shows that he took the car from the Applicant on the next day and hence recovery thereof thereafter the substantial period of time to be shown at the instance of the present Applicant is nothing but a planting of the evidence against him. By referring to the call detail record it is submitted that except for the alleged fact that there were phone calls between the Applicant and some of the co-accused, the said evidence cannot be considered as incriminating as these co-accused had previous acquaintance with the Applicant. It is his submission that the co-accused Akashdeep Karaj Singh has been granted bail by this Court and considering the evidence against the Applicant, his case stands on better footing than the said co-accused. He further claims that there is absolutely no evidence on record indicating any money being received by the present Applicant in the said crime and as such Applicant cannot be held to be the beneficiary of the crime. It is contended that in absence of any evidence / material to show that the Applicant is the member of organized crime syndicate, he cannot be kept in jail after conclusion of investigating and with filing of the charge-sheet. He placed reliance on the followed judgments:-

- 1. Ranjitsingh Brahmajeetsingh Sharma V/s. State of Maharashtra and Anr.¹*
- 2. State of Maharashtra V/s. Bharat Shanti Lal Shah & Ors.²*
- 3. Mr. Javed Ahmed Abdul Majeed Ansari v. State of Maharashtra³*

1 (2005) 3 S.C.R. 345

2 (2009] ALL MR (Cri) 624 (S.C.)

3 (2014) ALL MR (Cri) 4934

*4. Dinesh Bhondulal Baisware v. State of Maharashtra*⁴

*5. State of Maharashtra v. Shiva @ Shivaji Ramaji Sonawane*⁵

*6. Girish Kumaran Nayar v. the State of Maharashtra*⁶

*7. Tanmay Jadhav v. State of Maharashtra*⁷

*8. Sameer Taj Khan v. State of Maharashtra*⁸

*9. Mohamad Illiyas Mohammad Bilal Kapadiya v. State of Gujrat*⁹

5. Learned APP opposed the application by citing seriousness of the crime. It is his submission that there is sufficient evidence on record to *prima facie* come to the conclusion that there is involvement of the Applicant in the crime in question. It is further argued that at this stage the Court is required to take into consideration the material on record as it is without deciding the correctness or otherwise thereof. It is his submission that the confessional statement of the co-accused recorded under Section 18 of the Act gets further support from the call detail record so also the statement of the witnesses. It is submitted that once there is *prima facie* evidence on record, more particularly the confessional statement of co-accused – Nitin, it cannot be said that the Applicant has no involvement in the crime in question. It is submitted that there is previous crime registered against the Applicant along with one of the co-accused – Sambhaji and which

4 (2016) ALL MR (Cri) 3517
5 (2015) 9 SCR 211
6 2006 ALL MR (Cri) 1841(S.C.)
7 (2024) ALL MR (Cri) 4097
8 2024 ALL MR (Cri) 3732
9 2022 (13) SCC 817

shows that the Applicant is likely to commit crime if enlarged on bail and as such the conditions requisite for grant of bail under Section 21(4) of the MCOCA are not satisfied.

6. Learned senior counsel for the Intervenor opposed grant of bail by contending that though ordinarily call detail record may not become incriminating circumstance in case calls are between the acquaintances, however, according to him herein this case confessional statement of the co-accused recorded under Section 18 of the Act clearly indicates the knowledge of the Applicant with regard to the crime which was to be committed by the syndicate. In this circumstance, according to him, if the calls are made by the Applicant to the co-accused and that too substantial calls, the same becomes incriminating circumstance against him. According to him, there could be over-zealousness of the investigating officer of recovery of the car being attributed to the Applicant but, according to him, that would not become ground to discard case of prosecution. He contends that even excluding the said evidence there is enough material on record to show involvement of the Applicant in this crime. It is argued that the confessional statement of the accused recorded under Section 18 of the Act is a substantive piece of evidence and as such it is not open for this Court to discard the same during trial or even at this stage. With regard to the alleged procedural inconsistencies are concerned, it is his submission that it is for the concerned accused to raise objections and same would be determined by the Trial Court during the course of trial. According to him by relying upon the case law that at this stage this Court is required to take any consideration as to whether there is any evidence to show

involvement of the Applicant in the crime and if it is so, the question of grant of bail to the Applicant in view of embargo created by Section 21(4) of the Act does not arise.

7. There cannot be any dispute made with regard to the proposition of law sought to be canvassed on behalf of the prosecution that the Court has to at this stage consider the *prima facie* material on record and to see as to whether there is any evidence which would implicate the present Applicant in the crime. A perusal of the overall evidence collected during the course of the investigating *prima facie* shows the conspiracy being hatched in order to eliminate the deceased. Needless to say that in view of the provisions of Section 3 of the MCOCA, the abettor of the crime is entitled for the similar punishment as applicable to the person who actually committed the crime and such punishment may extend to life imprisonment.

8. Furthermore, the proposition of law is fairly settled, to say that the confessional statement of the co-accused is admissible in evidence and the same would not only bind the person making such statement but also becomes an evidence against the co-accused. Needless to say that it is for the Trial Court to consider the said statement and objections if any raised by the defence in that regard. At this stage, it is necessary for the bail Court to accept statements made by the co-accused as evidence not only against the person making it but also against the co-accused. As far as irregularities in appending certificate to the confessional statement i.e. non-mentioning of the date and time is concerned, the said issue cannot be decided at this stage. It is not case of the Applicant

that after recording of confessional statement, it was not produced along with the accused before the concerned Magistrate. Thus, at this stage it is not open for this Court to deal with the legality of the confessional statements recorded under the provisions of Section 18 of the Act.

9. Herein this case there are confessional statements of the co-accused showing involvement of the Applicant in this crime. The Applicant has been named specifically in the said statement so also the statement indicating that the Applicant had knowledge about the conspiracy of killing someone. This Court therefore finds substance in contention of learned senior counsel appearing on behalf of the Intervenor that once it was within the knowledge of the Applicant that the person to whom, he along with others received, had been there for committing murder, and therefore he ought to have distanced himself from man. Instead of doing so, *prima facie* there is material on record to show that the Applicant was in contact with the co-accused even after such disclosure being made to him. Thus, CDR could be considered as incriminating circumstance against the Applicant.

10. Though it is sought to be taken defence by the Applicant that on 15th August, 2023, the Applicant was asked for the vehicle for the purpose of his wife's birthday, CDR of the Applicant however do not indicate so. Thus, it cannot be said that there is no evidence on record to in order to show the participation/involvement of the Applicant in the crime in question.

11. At this stage, it would be relevant to take note of Section 21(4) of the MCOCA, which reads thus:-

“21.(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.”

12. This provision clearly shows that unless the Court is satisfied that there are reasonable grounds to believe that the Applicant has not committed the crime in question and if enlarged on bail, he would not commit crime, the Court would not get jurisdiction to pass order of bail. Considering *prima facie* evidence on record against Applicant, so also antecedent against him, this Court finds no reason to record any satisfaction with regard to the twin conditions i.e. embargo created by Section 21(4) of the MCOCA. In absence of compliance of these conditions, no bail could be granted to the Applicant.

13. In view of the above, Applicant has failed to make out any case for grant of bail.

14. Hence, Bail Application stands dismissed.

15. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

16. In view of disposal of Bail Application, nothing survives for consideration in Interim Application. Hence, the same is also disposed of.

(R. M. JOSHI, J.)