



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [B.A.] NO. 1258 OF 2025

Irshad S/o Shaukat Ali

-- VERSUS --

State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Chaitanya B. Barve, Advocate for the Applicant.

Mr. A.R. Chutke, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : FEBRUARY 05, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.44/2024 for the offence punishable under Sections 201, 203, 302, 120-B read with Section 34 of the Indian Penal Code, 1860, (IPC), Sections 3(1)(i)(ii), 3(2) and 3(4), of the Maharashtra Control of Organised Crime Act, 1999, Section 135 of the Maharashtra Police Act, 1949, and Sections 3(2)(v)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered with Police Station Kapil Nagar, District Nagpur.

3. The learned counsel appearing for the applicant submits that, absolutely, there is no role of the present applicant. He came on another

motorcycle along with other accused persons, namely, Harshdip Nagrare and Rushabh Chaphekar. He further submits that, there is no overt act on the part of the present applicant, however, the main accused - Rahul Ramteke, has abruptly took out the knife and inflicted blows on the deceased – Mangesh. He further submits that the only role which is attributed to the applicant was that he came after the main accused - Rahul on another motorcycle and further he has stated “अबे जल्दी कर चल”. Except this, there is nothing in the charge-sheet against the present applicant. Even on the perusal of the entire charge-sheet, there is nothing on record to show that he was part and parcel of the conspiracy. He further submits that the applicant is in jail since 01/03/2024. He submits that almost 2 years are over, still the charges are not framed, and therefore, lastly submits that considering the role, the present applicant deserves to be granted bail.

4. On the other hand, the learned A.P.P. invited my attention to the various statements, including one of Ankit @ Ganja Jainag Chauhan, wherein he has specifically stated that on 02/02/2024 at about 11 p.m. to 11:15 p.m., Rahul came on motorcycle. After that, the present applicant and other two persons, namely, Rushabh Chaphekar and Varlya alias Harshdip came there, at that time,

the present applicant said to Rahul “अबे जल्दी कर चल”, and accordingly, thereafter, the main culprit Rahul called Mangesh, and under the pretext of talking, he took out the knife from his t-shirt and inflicted blows on Mangesh. Thereafter, they all ran away from the spot. The learned A.P.P. further points out that they have hatched conspiracy as on the day of incident at about 8:30 p.m. they all were present at the paan shop which could be gathered from the statement of Mohan Yadav. However, he does not state anything about the conspiracy. The learned A.P.P. further points out the statement of one Mohammad Subhrati, wherein one Papabhai came to his shop and there was discussion about the conduct of Mangesh with Rahul and wherein it was discussed about eliminating Mangeshbhai, and therefore, he submits that it is a clear cut conspiracy between the accused persons. He further submits that this Court has already rejected the bail application of one of the main accused, Satish Nakke, who is the main conspirator. He further submits that even the Supreme Court has confirmed the said order, and therefore, he prayed to reject the bail.

5. It appears that, after registration of F.I.R., provisions of MCOCA are invoked as co-accused – Satish Nakke was acting in an organized

manner and running syndicate, so also committed several offences.

6. Admittedly, the F.I.R. was registered by the wife of the deceased alleging that Rahul has killed her husband, however, the name of the present applicant does not appear in the F.I.R. It could be further gathered from the statement of one Ankit, wherein he has stated that, initially, the main assailant Rahul came on motorcycle, and thereafter, the present applicant along with two others, i.e., Rushabh Chaphekar and Harshdip on second motorcycle at the spot of incident. At that time, it could be gathered from the said statement that the present applicant and others were having friendly relationship and further it appears that the present applicant has stated to Rahul “अबे जल्दी कर चल”. Apart from this, there is no overt act attributed to the present applicant. It is further to be noted that, even if the statement of Mohd. Shubrati (who is running chinese food stall) is considered, wherein conversation between Rahul and Papabhai took place for eliminating deceased Mangesh at that place also the applicant was not present. The record further depicts that the present applicant does not have any nexus with the gang leader – Satish Nakke. Under such circumstances, merely MCOCA is invoked, that by itself, would not be sufficient to deny the bail

when the applicant is behind bars since from 01/03/2024. Considering the limited role of the present applicant in the entire incident and he is behind bar since 01/03/2024 and the fact that the investigation is complete and charge-sheet is filed, I am inclined to grant bail by imposing terms and conditions. Hence, the following order:-

ORDER

(i) The Criminal Application is **allowed;**

(ii) The applicant/accused (Irshad S/o Shaukat Ali) be released on regular bail in connection with Crime No.44/2024 registered with Police Station Kapil Nagar, District Nagpur, for the offence punishable under Sections 201, 203, 302, 120-B read with Section 34 of the Indian Penal Code, 1860, (IPC), Sections 3(1)(i) (ii), 3(2) and 3(4), of the Maharashtra Control of Organised Crime Act, 1999, Section 135 of the Maharashtra Police Act, 1949, and Sections 3(2)(v)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on his furnishing a P.R. bond of Rs.50,000/- (Fifty Thousand Rupees) with two solvent surety in the like amount;

(iii) The accused shall not directly or indirectly make any inducement, threat or

promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence;

(iv) The accused shall provide his residential address and cell number to Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency;

(v) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for two consecutive dates, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail or even trial Court *suo moto* take cognizance of this and cancel the bail;

(vi) Pending Misc. Application(s), if any, also stand disposed of.

7. The observations of this Court are *prima facie* in nature. The Trial Court shall not be influenced by the observations of this Court and the observations are restricted to this bail application only.

[M.M. NERLIKAR, J]