



CRIMINAL BAIL APPLICATION NO.1547/2025

(CNR No. MHPU010038582025)

Gajanan Pandharinath Marne Vs

State of Maharashtra through Kothrud PS

ORDER BELOW EXH.1

This is bail application filed under Section 483 of BNSS by applicant/accused **Gajanan Pandharinath Marne** who arrested in Crime No.46/2025 registered with Kothrud Police Station for committing offences punishable under Sections 109, 118 (1) (2), 126 (2), 111 (2), 3 (5) of BNS and Section 3 (1) (ii) and 3 (4) of Maharashtra Control of Organized Crime Act, 1999 (*in short MCOC Act*).

2. Brief facts of the prosecution case are as under :

One Devendra Jog lodged FIR alleging that on 19/2/2025 at about 04.00 p.m. informant was proceeding on two-wheeler. At around 04.30 p.m. while going to Gujarat Colony from Greenfood Hotel, Bhelkenagar Chowk, he noticed crowd at one bus stop, therefore he stopped, at that time 3 to 4 unknown persons asked informant *“Why can’t you drive the car slowly, why are you pushing me?”*. That time informant told him that *“I did not push you”*, at that time accused slapped informant due to which the informant fell from his vehicle and the accused started assaulting to the informant with a waist belt and kicked him on his nose. Blood started oozing from the nose of informant and sustained serious injuries to the informant’s nose, face and ears. The informant was threatened with his life and FIR came to be lodged with Kothrud Police Station.

3. During investigation it was transpired that accused have formed organised Crime Syndicate to have supremacy in the vicinity and to create terror, therefore provisions of MCOC Act have been invoked against accused.

4. The applicant filed bail application on the grounds that he has not committed any offence. He was not present at the scene of incident, rather was not present within one km radius of the incident. His name is not mentioned in the FIR. No role attributed to the present applicant. The informant had filed affidavit before the court that incident occurred in the hit of moment and there was no instigation by any other person. In crime registered with Bharati Vidyapeeth police station, report under Section 169 of Cr.P.C. has been filed against this accused. In Test identification parade informant failed to identify present applicant. Section 109 of BNS Act will not apply to present applicant. There was no any intention to kill to the informant. Injury certificate is on record is suspicious. The applicant is suffering from High Blood pressure. No any intention or motive for this applicant to commit crime. No incriminating article came to be seized from this applicant. There are no criminal antecedents of conviction. He is only bread owner. Hence bail may be granted.

5. The prosecution opposed bail application on the ground that CCTV footage of City Pride Multiplex has been seized under the panchanama and the eye witnesses had identified to the accused. CDR has been sent for analysis.

Supplementary statement of the informant and his family members after filing affidavit on record has been recorded. Vehicles have been seized. With intention to kill to the accused assault was made. It is seen from CCTV that accused was present within the vicinity of spot of incident and with the help of his colleagues put pressure upon the witnesses and it has been revealed during interrogation with co-accused. They stated that at the behest of this applicant committed crime. If applicant released on bail, there is possibility of tampering of prosecution evidence. Yet investigation is in progress, scope of investigation is vast. There is possibility of committing another serious offence and by putting pressure upon the witnesses caused hurdle in the investigation. Hence bail may not be granted.

6. Learned advocate for the applicant Mr. Vijaysinh Thombre submitted that MCOCA provision has been wrongly invoked against applicant. Gang leader is co-accused Amol Tapkir against whom there is no more than one charge-sheet. Crime No. 45/2021 which is shown by the prosecution in which learned JMFC has passed order dated 1/10/2021 and deleted other sections and only sections of offences under Maharashtra Police Act for which one year punishment is provided are remained. Therefore basic ingredients for application of MCOCA are not satisfied. Another case of MCOC No. 322/2023 was registered wherein report under Section 169 of Cr.PC has been filed against this applicant. Co-accused has not been identified during Test identification Parade. No offence under Section 109

of BNS is made out. Unnecessary applicant is dragged in this case. Another offence of Alankar Police Station No.186/2019 wherein co-accused Om Tirthram Dharmjidnyasu is only accused and therefore no any co-accused shown in that case. There is no nexus or link of applicant with the two offences shown in order under Section 23 (1) (a) of the MCOC Act. In support of his submission he relied upon cases of *Abhishek Vs. State of Maharashtra in Criminal Appeal No. 869/2022 decided by Hon'ble Supreme Court of India on 20th May 2022* and *Govind Sakharam Ubhe Vs. State of Maharashtra 2009 ALL MR (Cri) 1903 Bombay High Court*. He further submitted that there are no any continuing unlawful activities of organised Crime. What is important is the nexus or link of persons with Organized Crime Syndicate, that link is missing. Therefore persons cannot be roped in a crime like MCOC. Hence application may be allowed.

7. Learned Special PP Mr. Bombatkar submitted that applicant is hardened criminal. Since 1988, 21 crimes are filed against him. He has terror in the society, therefore due to hostility of witnesses in some of the offences out of 21 offences he has been acquitted. In CCTV footage, vehicles can be seen. Confidential witnesses had stated about activities of the Organized Crime Syndicate. Investigation is in progress. If accused released on bail, there is possibility of tampering of prosecution evidence by putting pressure upon the witnesses. Detailed investigation is to be carried out. He further pointed out that other co-accused are absconding. Further it has been

revealed that though accused is in jail, members of gang are assisting him while transporting him from one jail to another jail. Regarding sanction under Section 23 (1) (a) of the MCOC, at this stage it is not necessary to go into the validity. It can be seen at the time of trial. In support of his submission he relied upon case laws in the case ***Anil Sadashiv Nanduskar Vs. State of Maharashtra 2008 (3) MhL.J. (Criminal) 650 .***

8. I have gone through the application, say and submission of both the sides.

9. Perused the documents on record. On going through the evidence of confidential witnesses, it is seen that Gajanan Marne and Rupesh Marne instigated to the co-accused not to leave to the informant and to beat him. Further they had stated that at about 04.30 p.m. at Bhelkenagar Square, the applicant was doing Pooja of sound system, at that time in traffic Thar vehicle was there wherein other co-accused were sitting. They informed to Gajanan Marne and Rupesh Marne that one person is raising quarrel with them and taken photographs of their vehicles. Therefore while that person proceeding on his two-wheeler, this applicant and Rupesh Marne asked to co-accused to catch him and not to leave him and assault him and thereafter that informant was assaulted by co-accused. Further on perusing the statement of other witnesses, who alleged to be at the spot had given similar type of evidence and involvement of applicant in this commission of crime. Prima facie this evidence shows involvement of applicant in this crime.

10. Advocate for applicant submitted that affidavit has been filed by the informant on record which shows that it was act due to sudden anger and no any person has instigated to co-accused to assault him. Even no one is present at the spot. It is filed on 1/3/2025. However on going through the supplementary statement of said Devendra Jog, he stated that, at the time of filing complaint he was afraid and therefore detailed things were not narrated by filing complaint. He has categorically stated that he was beaten by accused by waist belt and fist and kick blows. He suffered bleeding injury from his nose. Again on 3/3/2025 his supplementary statement was recorded wherein he stated that he belongs to common family. Accused persons are having terror in the society within the area of Kothrud, Pune and therefore he do not want to involve to them and therefore there is danger to him and his life and to save life of his family member, he had filed affidavit in the court and also at the time of Test identification Parade, he was afraid therefore he is suffering under the clouds of fear.

11. Considering the above situation and circumstances prima facie it reveals that accused persons have terror in the society that's why informant is in dilemma and therefore he might have filed affidavit on record. At this stage I am of the view that as the investigation is in progress, it will not be appropriate particularly in the circumstances when the accused have terror in the society to release him on bail.

12. Apart from above other circumstances raised by the

applicant that about applicability of MCOC, I am of the view that yet investigation is in progress, prima facie involvement of this applicant is seen from the statement of the witnesses and from statement of informant. I find substance in the submission of learned PP that if at this stage accused is released on bail, there is possibility of putting pressure upon the witnesses. Learned advocate Mr. Thombre for the applicant had submitted about applicability of MCOC, but I would like mention here that while granting extension of period for filing charge-sheet, thus court made observation that there is prima facie case for invocation of MCOC and granted extension after considering all rulings referred by both the sides cited supra vide its order dated 21/5/2025. Thus, I felt that it will be repetition to discuss here again. Thus I am of the view that at this stage when the court come to the conclusion that if applicant released on bail, there is possibility of putting pressure upon the witnesses and which will cause hurdle in the investigation. This itself is sufficient to reject the application. In the above circumstances I found that at this stage it is not fit case to release accused/applicant on bail. Thus I pass following order :

ORDER

Bail application stands rejected.

Pune.

Date :21/05/2025

[V. R. Kachare]

Special Judge (Under MCOC Act) &
Additional Sessions Judge, Pune

CERTIFICATE

I affirm that the contents of this P. D. F. file Order are same word for word as per original Order.

Name of the Court	:-	Shri. V. R. Kachare Special Judge (Under MCOC Act) & Additional Sessions Judge, Pune
Name of the Steno	:-	Smt. B.J. Khandre Stenographer (Grade-I)
Date of Order	:-	21/5/2025
Order signed by presiding officer	:-	31/5/2025
Order uploaded on	:-	31/5/2025