

MHAK010004352023



Special Case MCOCA No.11/2023.

State of Maharashtra Vs. Suhas Wakode
and Others.

(Applicant : Vishal Mahadeo Hirole)

ORDER BELOW EX.112.

(Dated : 01.10.2025)

Accused No.2 Vishal Mahadeo Hirole has sought bail under S.483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with crime no.357/2022 (Spl. Case MCOCA No.11/2023) registered with Civil Lines police station, Akola for the offences punishable under S.302, 120-B, 143, 201, 34 of the Indian Penal Code, 1860, S.4/25 of the Arms Act, 1959 and S.3(1)(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act (for short 'MCOCA'), 1999.

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

On 14.8.2022, informant lodged FIR. Deceased Vinod was his brother. On 13.8.2022 at about 9.40 p.m., informant, his sister-in-law, two nephews were present in their hardware shop. Deceased was approaching on motorcycle. Accused Suhas Wakode stopped him in front of Deepika Grocery Shop, Chikharpura, Kharap Road, Akola. Informant saw that accused was talking with the deceased when co-accused approached from backside and dealt blows of sword on Vinod's back. Thereafter, accused Suhas dealt blows of big knife on the person of deceased. Both dealt blows of aforesaid weapons all over body of deceased. Aforesaid two accused were accompanied with two more persons. Informant

and others rushed to the spot. Vinod was lying in injured condition. They took him to Government Hospital where the medical officer declared him dead. FIR was registered as stated above.

3) In the course of investigation, identity of co-accused was discovered. Accused was arrested on 14.8.2022. Since then, he is in custody.

4) State has opposed bail application on various grounds.

5) Learned Advocate Mr. N. P. Birpol for the applicant has submitted that this is applicant's first bail application. He is arrested on 14.8.2022. Informant did not identify the accused before lodging of FIR. Charge-sheet includes 7 accused persons. So how present applicant is implicated is not justified. Investigating Officer seized t-shirt of the accused and prepared its seizure panchanama. However, description about the accused is of wearing shirt. Police recorded statement of wife of the deceased. She took name of present accused Vishal Hirole in her statement. Identification parade was carried. One witness did not identify the present accused Vishal. Thus, his identity is doubtful. General diary entry shows that father of deceased provided some information. However, his statement was not recorded. It should have been first information. Illicit liquor dispute was going on, so there is possibility of scuffle by some interested persons and false implication of the accused cannot be ruled out. There is no

single charge-sheet filed against the accused. There is no record to show that accused is member of syndicate, so provisions of MCOCA are not applicable. Applicant is local resident. He is ready to abide by conditions of bail.

6) Learned Special P.P. Shri R. R. Deshpande has submitted that the offence is serious. Main offence is of murder involving criminal conspiracy with addition of MCOCA. Postmortem Report shows 32 injuries found on dead body. It shows the brutality of the assault. Present accused is the first assailant. There are statements of eye witnesses who knew the accused. Three witnesses mentioned name of the accused in their statements. In identification parade, witnesses identified the accused. Even in the supplementary statement of informant, name of the accused is mentioned. All the accused are hardened criminals. They are members of organized crime syndicate. In fact, two such syndicates were working at the relevant time. Two murders, one from each gang took place. Now charge is also framed. Prosecution is ready to proceed with the trial. Application needs to be rejected.

7) When MCOCA is involved, general provisions of Cr.P.C. like 167 and 439 are applicable in modified form. S.21 (4) lays down two conditions for granting bail to the accused who is in custody. Firstly, to give opportunity to the Public Prosecutor to oppose the application and secondly, when learned P.P. 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. So, when learned Special P.P. has in fact opposed the bail application, the Court has to consider twin rider in the form that it shall prima facie come to the conclusion that the accused is not guilty of the offence and that he is not likely to commit any offence while on bail. Though there is controversy about the second test of not committing offence in future, firstly court is required to come to a conclusion that accused is not guilty of the alleged offence.

8) Competent authority granted sanction for prosecuting the accused persons under S.3 (1) (i) (ii), 3 (2), 3 (4) of MCOCA. Sanction was granted on 23rd January, 2023 against total 7 accused including present accused Vishal Hirole. While according sanction, the competent authority considered that six accused including present accused formed organized crime syndicate with Suhas Wakode, the leader of alleged organized crime syndicate for committing offences against persons and property with intention of gaining illegal pecuniary gain or other advantages by use of violence, etc. Sanction makes it clear that, more than one charge-sheet have been filed against Suhas Wakode, the leader of alleged syndicate and members Ganesh Kaitle and Hritik Borkar as required. Such charge-sheets have been filed in respect of offences alleged to have been committed singly or jointly with other accused in preceding 10 years of commission of instant crime and the competent Courts have taken cognizance of

such offences. It is settled view that filing of such charge-sheets is not required against each and every member of the alleged crime syndicate. Prima facie, it appears that competent authority granted sanction for prosecution on application of mind. Sanction order shows that previous charge-sheets were filed against syndicate leader and two members. Though there may not be previous charge-sheets against present accused Vishal, this aspect is beyond consideration at this stage. It is so because charge is already filed on 25.7.2025 after hearing both sides. Hence, now this court cannot go back to consider the aspect of application of MCOCA to present accused. In such situation, present application requires to be considered on the touchstone of S.21(4) of MCOCA. In any case, the main offence is of committing murder. Hence, evidence on record has to be considered while deciding bail application.

9) Learned Special P.P. Shri Deshpande has submitted that, as many as 32 injuries are found on the body of deceased on vital body parts. In column No.17 of Postmortem Report, total 24 injuries are mentioned. Injury No.24 is multiple incised chop wound which in fact is constituted by seven different wounds. So in effect, 30 external injuries can be considered mentioned in column no.17. There are five injuries on head, neck and face. There are three injuries on upper limbs. There are five injuries on chest and nine injuries are on abdomen. Seven multiple incised chop wounds are found over left side of back apart

from the injuries mentioned above on right side of back. FIR itself shows that alleged assault was committed using deadly weapons like sword and big knife. The nature of assault and injuries found on the deceased are self explanatory. The intention of the assault is writ large and it is elimination of the deceased from this world.

10) It is necessary to consider the material available on record against the present applicant. Co-accused Darshan gave memorandum statement and showed the spot where meeting was held in which conspiracy was hatched to kill the deceased. Present accused took part in the meeting. Statements of several witnesses are recorded. Their names are not disclosed in this discussion. Some of the witnesses are close relatives of the deceased. Supplementary statement of informant and statements of other close relatives of the deceased show that present accused Vishal Hirole was present on the spot with other co-accused. Informant and other witnesses also saw the present accused while dealing blows with weapon like knife. After giving description of present accused, informant mentioned his name in supplementary statement. I have already discussed the injuries found on the deceased. Such brutal assault can be handiwork of more than one person. Witnesses are stating about the assault committed by Suhas and Vishal.

11) From the police statements of few witnesses, it is revealed that few days prior to the present incident, accused Suhas Wakode came out of jail. Eight days prior to the

incident, he & other accused went to the home of deceased. Suhas threatened to kill the deceased. Thus, intention to kill the deceased was expressed by accused Suhas in the company of other co-accused. From the statements of some witnesses, it becomes clear that there was rivalry between Suhas Wakode, the leader of syndicate, and deceased Vinod Tobare for superiority in the area. So, gaining supremacy in the area for unlawful activities is covered in the term 'other advantage' mentioned in the definition of 'organized crime'.

12) It is submitted by Shri Birpol that one witness did not identify the accused in identification parade. It is a fact recorded in identification parade panchanama. However, it is also a fact that informant and three other witnesses identified the accused in identification parade. Thus, it is not the case that no witness identified the accused. Ld. Spl. P.P. has submitted that present accused is the first assailant and thereafter, Suhas committed further assault.

13) Thus, there is ample evidence to prima facie establish nexus between the accused and the offence. Considering aforesaid discussion, it cannot be said that there are no reasonable grounds to believe that the accused is not guilty of such offence as contemplated in S.21(4)(b) of MCOCA. Even otherwise, there is prima facie evidence to show involvement of present accused in the assault and being part of criminal conspiracy to kill the deceased. Furthermore, there is likelihood of involvement in similar offences and tampering with witnesses if accused is granted bail.

14) In this case, charge is framed on 25.7.2025. After completion of necessary formalities and representation of all accused persons through the Advocates of their choice for trial, the accused who are presently in Wardha, Nagpur and Chandrapur Jails, will be brought to Akola and in nearby Jails for convenience of bringing them for the trial. Now, the trial is likely to commence in near future. This application has been filed after framing of charge and has caused some delay in proceeding with the trial. At this juncture, when the matter is ready for trial and when there is prima-facie evidence regarding involvement of accused is on record, he is not entitled for bail. In view of aforesaid discussion, I come to the conclusion that this is not fit case to grant bail. Hence, following order.

ORDER

Application is rejected.

Date : 01.10.2025.

(A. D. Kshirsagar)
Special Judge, MCOCA, Akola.