

**IN THE COURT OF ADDL.SESIONS JUDGE AT VAIJAPUR**  
**DISTRICT AURANGABAD**

MHAU040009202024



**Special Case No. 429/2024**  
**State of Maharashtra Vs. Sham Bhosale**  
**and others.**  
**Crime No. 296/2023, P.S. Shivoor**  
**Offence Pun.u/s 395, 397 of IPC**  
**and u/s 3 (1) (i) (ii), 3(2), 3(4) of The**  
**MCOC Act.**

**ORDER BELOW EXH.24**

01] This is an application filed by accused Amit @ Aminkhan Kagad Chavan under section 483 (corresponding to section 439 of Code of Criminal Procedure) of BNSS for releasing him in crime No.296/2023 under section 395, 397 of the Indian Penal Code and u/s 3(1)(ii), 3(2), 3(4) of MCOC Act registered with police station, Shivoor.

02] The learned APP by filing his reply overleaf application (Exh.22), has strongly opposed the application on the following grounds :-

- a] That the accused is habitual offender.
- b] That there is possibility of commission of serious offence.
- c] That there is possibility of tampering with prosecution witnesses.

03] Heard learned counsel for the accused and learned APP for the State. Perused the application, reply and the charge-sheet. It is the case of the prosecution that the informant Vishnu Pandharinath Surashe lodged the report that on 08.11.2023 he along with his wife and son were sleeping on platform in front of their house in their field after taking meal at about 09.00 p.m. At about 10.30 to 11.00 p.m., he woke up after hearing the cry of his son and he saw that 2-3 persons aged about 30 to 35 years were beating to his son. Those persons were having iron rods, wooden sticks and the knife. They assaulted his son on head and caused injury on his head and left knee. They were scuffling with his son and at that time one of them caused injuries to him by assaulting with an iron rod. His son ran away from the spot. On hearing the noise of quarrel, his wife woke up. Those 2-3 persons also assaulted her on her hands by means of iron rod and snatched her wearing ornaments by threatening her with knife. They snatched one mobile phone also. It is further alleged in the report that 7-8 persons aged about 30 to 40 years assaulted the informant, his wife and son with iron rods and by threatening his wife snatched ornaments and mobile worth of Rs.45,000/-. On the basis of said report, an offence vide crime No.296/2023 under section 395, 397 of IPC have been registered against unknown persons.

04] During the course of investigation, on 25.01.2024 Deputy Superintendent of Police informed the learned Magistrate about the addition of section 3(1)(ii), 3(2), 3(4) of MCOC Act in the above said crime.

05] It is well settled that it is incumbent on the part of the Court before granting of bail to any person accused of an offence punishable under MCOC Act, to record satisfaction that there are reasonable grounds for believing that the applicant is not guilty of such offence and that the applicant is not likely to commit any offence while on bail. In the case in hand, it is the submission of learned counsel for applicant that the applicant has been arrayed as an accused only on the basis of suspicion and therefore, the applicant deserves to be released on bail. On considering the material available on record, I do not find any substance in the submission of learned counsel for the applicant. The co-accused namely Sham Badod Bhosale and Pandurang Bharam Bhosale disclosed before the police that at the time of commission of alleged offence, the present applicant was with them. Not only this, the record shows that there are several offences registered against the present applicant at Kopargaon Taluka P.S., Kannad Gramin P.S., Kannad City P.S., Khultabad P.S. and Kopargaon P.S. Thus, there is prima-facie material on the record against the present applicant showing his involvement in the crime. Consequently, the present applicant cannot be released on bail.

06] The learned counsel for the applicant has relied upon the case of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra (Criminal Appeal No.2787 of 2024 decided on 3<sup>rd</sup> July 2024)** and **Ravindra Uttam Gondkar Vs. State of Maharashtra** wherein the Hon'ble Supreme Court has granted bail to the accused persons noticing that they were in custody for more than four years and three years respectively and

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the trial was not concluded in the former case and the charge was not framed in the later case. These case laws will not be helpful to the applicant simply for the reason that in the present case, the charge-sheet has been filed on 08.05.2024 and since then the accused persons are separately filing applications for bail and the same are being decided. It is not the fact that there is failure either on the part of prosecution or on the part of Court in proceeding with the matter. Therefore, the applicant cannot claim that his right of speedy trial is being infringed. In the result, I pass following order:

**ORDER**

Application Exh.24 is hereby rejected.

Date : 27-12-2024

(R.D.Gadwe)  
Addl. Sessions Judge-1, Vaijapur

**CERTIFICATE**

I affirm that the contents of this P.D.F file order are same word to word, as per the original order.

Name of the stenographer : Balaji N. Kuntalwar

Court Name : District Judge-1 & Vaijapur

Date : 27-12-2024

Order signed by the

Presiding Officer on : 27-12-2024

Order uploaded on : 27-12-2024