

MHKO010045212023



Order below Exh.71 in Special Case No.277/2023

(State of Maharashtra Vs. Tanaji Dhondiram Kolapate.)

1. This application is moved by the accused no.8 Tanaji Dhondiram Kolapate for bail.
2. It is contended that, the applicant-accused was arrested on 11/06/2023 and since then he is in judicial custody. The first bail application of the applicant-accused was rejected. However, the concerned defence Advocate, during course of argument, on the said bail application had not argued upon the sanctity of the prosecution case and contents of the charge sheet. So also, the long incarceration of the applicant-accused is one of the change in circumstances. The applicant-accused has also contended that, the FIR is an afterthought, contents of the FIR are incorrect and false and the police authorities have failed to bring on record that, the applicant-accused was involved as an active gang member of the alleged 'Kedar Gang'. Furthermore, the applicant-accused is behind bars from 19/06/2023 and there has been no progress in the trial after rejection of the first bail application.

3. The State has resisted the application on the grounds that, there is sufficient material showing involvement of the applicant-accused in the alleged offence. Furthermore, some crimes involving serious offences have been registered against the applicant-accused.

4. I have heard the Ld. Advocate Mr. E. D. Indulkar for the applicant-accused and the Ld. APP Mr. A. A. Mahadeshwar for the State.

5. The Ld. Advocate for the applicant-accused vehemently submitted that, name of the applicant-accused no.8 is not mentioned in the FIR. Furthermore, as per the allegations in the police papers, the applicant-accused was with the accused no.9 Satyajit who has been released on bail and it is pertinent to note that, said accused no.9 has been identified in the Test Identification Parade whereas, the applicant-accused has not been so identified. The Ld. Advocate for the applicant-accused further submitted that, there has been serious lacunae in the prosecution case, the FIR is belated and the case papers pertaining to the admission of the injured in the CPR Hospital are not included in the charge-sheet which casts doubt on the prosecution case.

6. As against this, the Ld. APP vehemently submitted that, the earlier bail application of the applicant-accused has been rejected on merits after filing of the charge-sheet and there is no substantial change in circumstances. He also submitted that, applicability of the MCOCA is not disputed at this stage and the

burden is on the applicant-accused as per section 21 of the said Act to show that, there are no reasonable grounds for believing that he is guilty of the offence and that, he is not likely to commit any offence while on bail. The Ld. APP also vehemently submitted that, there is enough material showing the involvement of the applicant-accused in the crime and as unlawful assembly was formed by all the accused, the offence committed any member of the unlawful assembly in prosecution of the common object would make all the members of the assembly liable for punishment for the said offence. He also submitted that, various crimes have been registered against the applicant-accused in the past. So also, externment order was also passed against him and this is not the case to release the applicant-accused on bail.

7. I have given thoughtful consideration to the submissions made on behalf of the parties.

8. It is a matter on record that, the applicant-accused had earlier moved application (Exh.42) for bail and my Ld. Predecessor was pleased to reject the said application by passing detailed order. While rejecting the said application, it was observed that, the material prima facie shows involvement of the applicant-accused in commission of the alleged offence and the applicant-accused has failed to overcome the rigor of section 21(4) of the MCOCA . The aspect of long incarceration was also considered while passing the said order. Therefore, I need not go into the merit of the case again while deciding this bail

application. My Ld. Predecessor has also specifically observed that whether the applicant-accused can be seen in the video footage cannot be considered at this stage. As far change in circumstances, the defence Advocate had not argued upon the frivolity in the prosecution case and the contents of the charge-sheet cannot be said to be change in the circumstances. The order passed below the earlier bail application makes it clear that, various grounds touching the merits were raised on behalf of the applicant-accused and dealt with my Ld. Predecessor. The said bail application has been rejected on 18/07/2025. Considering these circumstances, I do not deem it fit to release the applicant-accused on bail. Hence, the following order :

ORDER

The application is rejected.

Kolhapur.

Date : 01/04/2026.

(R. V. Utpat)

Additional Sessions Judge,
Kolhapur.

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	Mrs.S.R.Tambvekar
Name of Court	Mr. R. V. Utpat Additional Sessions Judge, Kolhapur.
Date of Dictation	01/03/2026.
Order signed by the P.O. on	02/04/2026.
Order uploaded on	02/04/2026.