

MHKO010045212023



Order below Exh.64 in Special Case No.277/2023

(State of Maharashtra Vs. Rahul Sarjerao Hegde)

1. The applicant- accused No.6 is seeking bail U/Sec.483 of the Bharatiya Nagarik Suraksha Sanhita. He is charge-sheeted for offence punishable U/Secs. 307, 120(b), 143, 147, 148, 149, 504 of the IPC r.w. 5, 27 of the Arms Act, r.w. 142 of the Maharashtra Police Act and 3(1) (ii), 3(2), 3(4), 4 of the MCOC Act, 1999.

2. It is the prosecution case that, the informant is doing business of selling onions and potatoes and his friend Prakash Baban Bodake helps him in that business. One year prior to the date of the incident, fight has taken place between Prakash Bodake and Santosh Bodake on the count of tearing a banner. Said Santosh Bodake is a member of gang run by accused Kedar Ghurake and rest of the accused are also members of the said gang. Said gang is indulged in giving threats, spreading terror, kidnapping for ransom, possessing deadly weapons etc. and said Santosh Bodake is lodged at Yerwada Prison. On 21/05/2023, at about 1.30 p.m., the informant and his friend Prakash Bodake were proceeding on a motorcycle to Shivaji Peth, Kolhapur for

repairing informant's mobile phone. At about 2.00 pm, when they were standing at the 'Ardha Shivaji Putala', accused Yuvraj Shealke, Krushnath Bodekar and Kedar Ghurake came on a motorcycle. Accused Yuvraj was driving the said motorcycle whereas, accused Kedar and Krushnat were having swords in their hands. They started abusing Prakash Bodake and stated that, they won't spare him and started inflicting sword blows on him. Prakash tried to save himself. At that time, accused Karan Shelke and Rahul Hegade (applicant) came there on another motorcycle and accused Raju Bodake, Vikas Bhiungade also came on a motorcycle. Three unknown persons also came there on a motorcycle. Accused Rahul Hegde gave a sword blow to Prakash and Prakash stopped it by means of his hand. Accused Yuvraj took out a sword and dealt its blow to the informant but, the informant stopped it by his hand. Three unknown persons started beating him by fists and kicks.

3. It is further alleged that, Prakash started running towards Maruti Chowk and he was chased by the accused Kedar, Krushnath, Raju and Rahul. Accused Yuvraj, Vikas and Karan followed them on motorcycle. Thereafter, Prakash went inside a building and all the above accused followed him. After some time, the accused came outside brandishing swords and shouting as " संतोष भाऊचा येखडयातून आदेश आहे. पक्याचे कंडके करा. आज प्लॅन सक्सेस झाला". Thereafter, they went away on motorcycles. The informant went to see and he found that, Prakash was lying in a pool of blood at the staircase and he was having injuries to his

head, hands, back and leg. Thereafter, the informant with the help of some others took the injured to CPR Hospital and then the informant went to the Juna Rajwada Police Station.

4. The applicant has contended that, he was not present at the spot of incident with co-accused No.5 and he neither assaulted the injured nor conspired with the other accused. His name is included only on the basis of suspicion. He has further contended that, the CCTV footage relied upon by the prosecution does not reveal his presence at the spot of incident or that he was riding with co-accused No.5. He has also contended that, there is no material showing that, he was member of any organized crime syndicate or he was engaged in continuing unlawful activity. Furthermore, no incriminating recovery has been made from him. So also, the offence does not provide for life imprisonment or death penalty. He has also contended that invocation of MCOCA Act is in casual manner and conditions of Section 3 are not met. He is law abiding person having no criminal antecedents and the investigation is over. The co-accused No.5 is already released on bail on the ground that, he was not present at the spot and therefore, the applicant is also entitled to parity.

5. The State has resisted the application on the grounds that, the investigation has revealed that, the applicant-accused is involved in the crime in question and he is active member of the Kedar gang. Besides, an eye-witness has identified him in test identification parade. The State has also contended that, the

applicant-accused may pressurize witnesses or commit similar offence, if released on bail.

6. I have heard learned Advocate Shri. P. D. Indulkar for the applicant - accused and learned APP Shri. Mahadeshwar for the State.

7. The learned advocate for the Accused vehemently submitted that, as per the FIR, the applicant-accused was a pillion rider and the motorcycle was being driven by the co-accused No.5-Karan. He further submitted that, co-accused No.5 Karan is already released on bail on 15/04/2024 on the ground of alibi and the State has not challenged the same. According to him, the applicant-accused is also entitled to bail on the ground of parity. He also submitted that, the accused No.9 Satyajeet has been released on bail and as per the prosecution, said accused was identified in test identification parade. He further vehemently submitted that, there are serious lacunae in the prosecution, case papers of the CPR Hospital are not placed on record, there is delay in lodging the FIR and the applicant-accused is behind bars since long. On these submissions, he urged for releasing the applicant-accused on bail.

8. Per contra, the learned APP vehemently submitted that, the role of the applicant-accused is distinguishable from that of the co-accused No.5 and the material collected during the investigation shows that, the applicant-accused actually participated in the deadly attack by giving sword blows to the

injured Prakash. He further submitted that, at this stage CCTV footage is not much helpful and mere long incarceration is not a ground to release the applicant-accused on bail considering the gravity of the offence.

9. I have given thoughtful consideration to the rival submissions.

10. In the FIR, it is specifically stated that, the co-accused No.5 was driving the motorcycle and the applicant-accused was his pillion rider. It is also stated that, the applicant-accused gave blow of sword to Prakash Bodake and when Prakash was running towards Maruti Chowk, the accused Kedar, Krushnat, Raju and Rahul chased him. In his statement, the injured Prakash has also stated that, the applicant-accused gave a forceful blow of sword to him and accused, Kedar, Raju, Krushnath and Rahul attacked him by using sword. Furthermore, when he started running away, they all chased him and dealt sword blows to him. He has also specifically stated that, when he entered in a building, the said accused gave sword blows on his back, head, both hands and legs. So far as the co-accused No.5 is concerned, there are no allegations against him regarding attacking the injured by means of sword and roles of the applicant-accused and co-accused No.5 are distinguishable. My learned predecessor was pleased to reject the bail application of the accused Tanaji Kolapate on 18/07/2025. Thereafter, 2nd bail application of the said accused has been rejected on 01/04/2026. My learned predecessor while

rejecting the bail application of accused No.8 has observed that, *prima facie* material invokes bar U/Sec. 21 (4) of the MCOA Act and the applicant (accused No.8) has failed to overcome said rigor. As far as release of accused Satyajeet on bail is concerned, his role in the alleged incident is not as prominent as the applicant-accused. Considering the gravity of the offence and specific role played by the applicant-accused, I am not inclined to grant him bail and the application is liable to be rejected. Hence, following order.

ORDER

The application is rejected.

Date : 22/05/2026.

(R.V. Utpat)
Addl. Sessions Judge,
Kolhapur.