

MHPU010095932018



Order below Exh. 343 in Spl. MCOCA Case No. 39/2018

The accused **Rahul Chandrakant Shivtare** was arrested on 23/01/2018 in connection with C.R.No. 10/2018, registered in Deccan Police Station under Sec. 302, 307, 120-B, 201 of IPC, under Sec.3 r/w. 25 and 27 of the Arms, under Section 37(1)(3) r/w 135 of the Maharashtra Police Act and and under Sec.3(1)(i), 3(2), 3(3) and 3(4) of MCOCA. He has filed this application for bail under Sec. 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. He contends that this is his first bail application and no other application is pending in any other Court.

2. It is alleged that the accused No. 1 Ravindra Chorge and this accused Rahul Shivtare were the friends. Deceased Deven Shah was owing some amount to the accused No. 1 Ravindra Chorge and he was not paying that amount. On that ground both these accused came with loaded pistols in their hands to the house of the deceased on 13/01/2018 at about 11.10 p.m., they called him in the parking space, he came with his son Atit (the informant), both the accused opened fire at Deven Shah with the loaded pistols in their hands and they shot dead Deven Shah. It was alleged that accused No. 8 Rajesh Agarwal had provided pistol to Ravindra Chorge and accused No. 5 Sonu Rathod had provided pistol to this accused Rahul Shivtare. It was alleged that all the accused No. 1 to 9 were the members of organized crime syndicate and they conspired with each other to commit this crime.

3. The accused No. 1 Ravindra Chorge and accused No. 8 Rajesh Agarwal filed regular bail applications before this court vide Exh. 293 and 290 respectively. This court decided both the applications on 27/05/2025 and both the applications were rejected. Both these accused filed Criminal Bail Applications No. 2606/2025 and 2593/2025 respectively before the Hon'ble High Court. The Hon'ble High Court decided both the applications on 21/08/2025 and both the accused have been released on bail. The Hon'ble High Court noted the fact of rejection of the bail applications of the accused No. 1 and 8 in para 6 and 7 of the order. The submissions made at the bar and relevant rulings have been referred and ultimately the Hon'ble High Court observed in para 15 to 17 as follows-

Para 15- It is trite law that prolonged incarceration pending conclusion of trial is clearly violative of right guaranteed under Article 21 of the Constitution of India, which has been construed to right of fair as well as speedy trial. Applicants are in jail since the year 2018. Charge was framed as late as 19/06/2025. Actual trial i.e. examination of witnesses has not commenced. Trial which would include examination of the prosecution witnesses, recording of the statement of accused under Section 351 of BNSS and defence evidence if any, would certainly prolonged the trial. The applicants cannot continue to be incarcerated as an under-trial, indefinitely. In the facts and circumstances of the case applicants would be justified in pressing their right of denial of speedy trial.

Para. 16- Mr. Mehta and Mr. Rankamble, learned advocates for the applicants in both the bail applications on instruction from their respective applicants submit that pending the conclusion of the trial of Spl. MCOCA Case No. 39/2018, the applicant shall not enter the jurisdiction of District Pune except for attending hearing in Spl. MCOCA Case No. 39/2018. They further submit that the accused No. 1 and accused No. 8 shall not seek adjournment in Spl. MCOCA Case No. 39/2018. Statements accepted.

Para. 17- On the sole ground of prolonged incarceration of the applicants, this court is compelled to enlarged the applicants on bail. Hence, both the bail applications are allowed on following conditions -

4. There are total 9 accused in this case. The accused No. 4 Shankar Navale and accused No. 7 Sameer Sadavarte have been discharged. The accused No. 5 Sunil @ Sonu Madanlalji Rathod was transferred to Ujain by jail authority for trial of the case pending against him there. The jail authority has informed that this accused has been acquitted in that case and he has been released despite he was the under trial prisoner in this case. The explanation has been called from the jail authority and nonailable warrant has been issued against him. The prosecution has to file application under Section 330 of BNSS and thereafter the prosecution has to file list of witnesses to be summoned. The bail order in favour of Ravindra Chorge and Rajesh Agarwal has been passed on 21/08/2025. The accused Rajesh Agarwal has furnished bail on 26/08/2025 whereas, Ravindra Chorge has furnished bail on 28/08/2025.

5. Now, this accused Rahul Shिवtare is seeking bail on the ground of parity. He claims himself to be in better position than the accused Ravindra Chorge. Both were friends and both fired at deceased Deven Shah. Ravindra Chorge had some motive to kill Deven Shah but this accused had no such motive. He fired at Deven Shah for the sake of friendship with Ravindra Chorge. Thus, according to the learned advocate appearing for this accused that when prime accused Ravindra Chorge has been released on bail, this accused stands on equal footing if not in better position, he is entitled to be released on bail on the ground of parity.

6. The question would arise whether this court has power to record the finding which would be inconsistent with the findings recorded by the Hon'ble High Court while releasing the accused Ravindra Chorge and Rajesh Agarwal on bail. The answer would be in the negative. This court acts under the supervisory jurisdiction of the Hon'ble High Court and thus it is bound to follow the observations made by the Hon'ble High Court. Of course, this court has still jurisdiction to look into the facts and circumstances concerning a particular accused and his specific role in commission of the crime. However, the role of the accused No. 1 Ravindra Chorge and this accused was quite similar in commission of the crime. There is no other circumstance which would differentiate their role except the absence of motive for this accused. Thus, there would be merit in the submission that this accused stands on better footing.

7. In view of the order of the Hon'ble High Court, there would be hardly any scope to take a different view than the view expressed by the Hon'ble High Court. In the result I hold that this accused is entitled to be released on bail on the ground of parity. This accused is liable to be released on bail on same conditions as were imposed by the Hon'ble High Court. Hence, the order

ORDER

1. The application is allowed.
2. Accused **Rahul Chandrakant Shivtare**, is directed to be released on bail in connection with C.R. No. 10/2018 registered with Deccan Police Station on executing P.R. bond in the sum of Rs. 50,000/- (Rupees fifty thousand only) with

one or two local sureties in the like amount.

3. The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade such person from disclosing such facts to the court or to any police officer.
4. The accused shall not tamper with the prosecution witnesses and evidence in any manner.
5. The accused upon his release, within a period of three days from his release, shall furnish his cell phone numbers and residential addresses with proof to the investigating officer, Deccan police station and shall keep the same updated, in case of any change thereto.
6. The accused shall co-operate in the conduct of the trial of this case and shall regularly attend the hearing of the case pending on the file of this court on each and every date, unless exempted from appearance.
7. The accused shall report/attend before the investigating officer, Deccan police station on first and last Saturday of every month from 11.00 a.m. to 1.00 p.m. till further orders of this court.
8. The accused shall not enter the territorial jurisdiction of Pune District, till conclusion of the trial of this case, except for attending the hearing of the said case and for the purpose of reporting before the I.O., Deccan police station on the dates fixed.
9. Bail application is disposed off accordingly.

Pune
Date: 09/10/2025

(S.R. Salunkhe)
Special Judge (MCOCA), Pune.