

MHPU010137872025



Order below Exh. 5 in Spl. MCOCA Case No.1129/2025

The accused **Sajid Jiberiel Nadaf** and **Irfan Nasir Shaikh** were arrested on 15/04/2025 and 20/04/2025 respectively in connection with C.R.No. 100/2025 registered in Kalepadal Police Station under Sec. 308(2), 329(3), 351(2), 352, 389(1), 189(2), 391(2), 61(2) 111 of the Bharatiya Nyaya Sanhita, 2023 (BNS) and under Sec.3(1)(ii), 3(2), 3(4) of MCOCA. They have filed this application for bail under Sec.483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). They contend that this is their first bail application and no other application is pending in any other Court.

2. The informant Rupali Pardeshi lodged complaint against the accused No.1 and 2 namely Tipu Pathan and Ejaz Pathan and 8 unknown persons that on 02/07/2024, they came on the open plot of 1290 Sq.Ft. in Survey No.75/6 at Hadapsar owned by her and claimed their ownership over that plot and asked her to remove the tin shed otherwise they know how to get vacated that land. They visited that land frequently and they caused damage to the tin shed and scratched her name plate and demanded Rs.20,0,000/- from her if she wants to retain possession of that plot and they tried to take forcible possession of it.

3. Mr. B.R. Shaikh, the learned advocate for the accused submits that the complaint is false and is filed with ulterior motive. No incident as alleged in the FIR has been taken place and the FIR has been lodged after thought belatedly after 9 months. Basically, there is civil dispute regarding the plot in question and the informant has tried to give colour to it of criminal offence. No criminal offence, much less any offence under MCOCA is prima facie disclosed from the FIR and the provisions of MCOCA have been invoked without any basis. These accused are no way concerned to the dispute between the informant and the accused No.1 and 2 i.e. Tipu Pathan and Ejaz Pathan. They were not named in the FIR. There is no role attributed to them in the alleged FIR. There are no criminal antecedents against these accused.

4. The learned advocate refers that agreement of sale dated 16/07/2024 executed between the accused Ejaz Pathan and Vinod Lonkar by which the accused Ejaz Pathan has agreed to purchase the land in question for Rs.18,50,000/-. There is an agreement of sale between Sagar Pardeshi and Shabbir Sayyad executed on 22/06/2021 thereby the informant has agreed to purchase that land for Rs. 22,85,000/-. As stated in the FIR, Vinod Lonkar had objected that transaction claiming his ownership over that land. Thus, there is title issue between Vinod Lonkar and Shabbir Sayyad. Thus, the dispute was of civil nature and the

police ought not to have taken cognizance of such complaint and the parties ought to have relegated to the civil remedy. Knowing that the informant has no hope in invoking civil remedy, she has bent upon to prosecute the accused in criminal case by making false allegation regarding the incident which was not actually happened.

5. According to the learned advocate, now the investigation is completed and charge-sheet if filed. Therefore, further detention of the accused is not necessary. The accused are the local resident and they are not at flight risk. They would abide by all the conditions imposed by this Court. He therefore, submits that the accused be released on bail.

6. The IO has opposed this application by say (Exh5-A) and based on it, Shri. Pathare, the learned SPP submits that although the names of these accused were not in the FIR, their names have been disclosed during the investigation and thus, they have been arrested. They were the members of the organized crime syndicate of the accused No.1 Tipu Pathan and they were present at the spot at the time of alleged incident and they were remanding the extortion money. There is evidence against these accused. Further investigation is still going on and therefore, these accused may not be released on bail as there is express bar under Sec.21 of the MCOCA. The accused would indulge in pressurizing the

informant and they would interfere in the ongoing investigation. He therefore, submits that this application be rejected.

7. Having considered the rival submissions and on going through the relevant document, the dispute prima facie appears to be the civil dispute. There is nothing on record to show that these accused have any criminal antecedents. Therefore, the basic requirement to be the member of organized crime syndicate and indulging in continuing unlawful activities are not prima facie satisfied in this case. Therefore, the vice of bar under Sec.21 in MCOCA is not prima facie attracted. These accused have not named in the FIR and there is no role attributed to them. The apprehensions posed by the prosecution can be taken care of by imposing suitable conditions. Thus, I hold that the accused are entitled to be released on bail. Hence, the order.

ORDER

1. The application is allowed.
2. Accused **Sajid Jiberiel Nadaf** and **Irfan Nasir Shaikh**, who was arrested on 15/04/2025 and 20/04/2025 in connection with C.R. No. 100/2025 registered in Kalepadal Police Station under Section 308(2), 329(3), 351(2), 352, 389(1), 189(2), 391(2), 61(2) 111 of the Bharatiya Nyaya Sanhita, 2023 (BNS) and under Sec.3(1)(ii), 3(2), 3(4) of MCOCA, be released on bail on their furnishing P.R. bond in the sum of Rs.50,000/-

each with one or two sureties of the like amount on following condition-

- a) The applicants shall not tamper the prosecution witnesses and shall not indulge in any criminal activity.
- b) The applicants shall submit their address proof and phone details as well as phone details of two close relatives.
- c) Violation of any of the condition may entail a ground for cancellation of bail.

3. Bail application stands disposed of accordingly.

Pune
Date: 09/10/2025

(S.R. Salunkhe)
I/c Spl. Judge, MCOCA, Pune.
(For the Court presided over by
Shri. V.R. Kachare.)