

MHPU010137872025



Order below Exh. 35 in Spl. MCOCA Case No.1129/2025

The accused **Nadim Babar Khan** was arrested on 10/04/2025 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. He has filed this application for bail under Sec.483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). He contends that this is his first bail application and no other application is pending in any other Court.

2. The informant Rupali Pardeshi lodged complaint against the accused 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.20,00,000/- from her if she wants to retain possession of that plot and they tried to take forcible possession of it.

3. Mr. A.H. 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. This accused is no way concerned to the dispute between the informant and the accused Tipu Pathan and Ijaj Pathan. He was initially not named in the FIR. There is no role attributed to him in the alleged FIR. There are no criminal antecedents against this 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 Vonod 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 is the local resident and he is not at flight risk. He would abide by all the conditions imposed by this Court. There were 4 cases against this accused but he has been acquitted from all those cases. The accused Sajid Nadaf and Irfan Shaikh have been released on bail and the accused Ajinkya Undre has been released on anticipatory bail. Therefore, the ground of parity has been accrued to this accused as his role is similar to the role of those accused. He therefore, submits that the accused be released on bail.

6. The IO has opposed this application by say (Exh.35-A) and based on it, Shri. Pathare, the learned SPP submits that although, the name of this accused was not in the FIR, his name has been disclosed during the investigation and thus, he has been arrested. He is the member of the organized crime syndicate of the accused Tipu Pathan and he was present at the spot at the time of alleged incident and he was demanding the extortion money.

There is evidence against this accused. Further investigation is still going on and therefore, this 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 he 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 documents, the dispute *prima facie* appears to be of civil nature. There is doubt whether the basic requirement to be the member of organized crime syndicate and indulging in continuing unlawful activities would be *prima facie* attracted against this accused. Therefore, the vice of bar under Sec.21 in MCOCA is not to be *prima facie* attracted against him. The accused was not initially named in the FIR and there is no role attributed to him in the alleged incident. The apprehension posed by the prosecution can be taken care of by imposing suitable conditions. Thus, I hold that the accused is entitled to be released on bail. Hence, the order.

ORDER

1. The application is allowed.
2. Accused **Nadim Babar Khan**, who was arrested on 10/04/2025 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 his furnishing P.R. bond in the sum of Rs.50,000/- with one or two sureties of the like amount on following conditions-

a) The accused shall not pressurize the prosecution witnesses and shall not indulge in any criminal activity.

b) The accused shall submit his address proof and phone details as well as phone details of two close relatives, which shall be updated whenever there is any change therein.

3. Violation of any of the condition may entail a ground for cancellation of bail.

3. A copy of this order be sent to the Jail Authority by email.

Pune

Date: 17/11/2025

(S.R. Salunkhe)

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