

MHPU010137872025



**Order below Exh. 48 in Spl. MCOCA Case No.1129/2025**

The accused **No.1-Saddam Salim Khan**, who was arrested on 27/04/2025, **No.2-Azim @ Antya Mohammad Hussain Shaikh**, who was arrested on 27/06/2025, **No.3-Rajesh Dilip Pawar**, who was arrested on 30/06/2025 and **No.4-Matin Hakim Sayyed**, who was arrested on 24/07/2025, 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. 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 prosecution case in brief is that the informant Rupali Pardeshi lodged complaint against the accused namely Tipu Pathan and Ejaz Pathan (accused No.5 & 6) 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 of that plot. Total 14 accused have been arrested in this case.

3. Mr. B.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. These accused were no way concerned to the dispute between the informant and the accused Tipu Pathan and Ejaj Pathan. They were initially not named in the FIR. There is no role attributed to them in the alleged FIR. There are no criminal antecedents against these accused. They are not the members of any organized crime syndicate.

4. There are some transactions in relation to the disputed plot. The agreement of sale dated 16/07/2024 was executed between the accused Ejaz Pathan and Vinod Lonkar, by which, the accused Ejaj Pathan has agreed to purchase the plot 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 alleges that she 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. According to the learned advocate, the dispute was of civil nature and the police ought not to have taken cognizance of such complaint and the parties ought to have been 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 allegations regarding the incident, which was not actually happened.

5. The learned advocate further submits that now the investigation is completed and charge-sheet is filed. Therefore, further detention of these accused is not necessary. The accused are the local residents and they are not at flight risk. They would abide by all the conditions imposed by this Court. The co-accused Nadim Khan, Sajid Nadaf, Irfan Shaikh, Ejaj Inamdar, Jaid Bagwan, Tanveer Shaikh, Faiyaz Bagwan have been released on regular bail and wanted accused Ajinkya Undre and Imtiyaz Pathan have been released on anticipatory bail by this Court. The role of these accused is similar to those accused released on bail. Therefore, the ground of parity is accrued to these accused. He therefore, submits that these accused be released on bail.

6. The IO has opposed this application by say (Exh.48-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. These accused are the members of the organized crime syndicate of the accused Tipu Pathan and they were present at the spot at the time of alleged incident and they were demanding 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. 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, the dispute *prima facie* appears to be of civil nature. The allegations were primarily against the accused Tipu Pathan and Ejaj Pathan. These accused were subsequently identified and arrested. There is doubt whether they are the member of organized crime syndicate of Tipu Pathan as alleged and whether they are indulging in continuing unlawful activities within the meaning of the definition given in MCOCA. Under the circumstance, the bar under Sec.21 (4) of the MCOCA is not to be applied against these accused on bare contentions of I.O. The accused were not initially named in the FIR

and there is no specific role attributed to them in the alleged incident. It was general allegation of threats and demand of extortion amount against them. Now, the investigation is completed and the charge-sheet is filed. The apprehension posed by the prosecution can be taken care of by imposing suitable conditions. Thus, I hold that these accused are entitled to be released on bail on certain conditions. Hence, the order.

### ORDER

1. The application is allowed.
2. The accused **No.1-Saddam Slim Khan**, who was arrested on 27/04/2025, **No.2-Azim @ Antya Mohammad Hussain Shaikh**, who was arrested on 27/06/2025, **No.3-Rajesh Dilip Pawar**, who was arrested on 30/06/2025 and **No.4-Matin Hakim Sayyad**, who was arrested on 24/07/2025 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/- with one or two sureties of the like amount each 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 their 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: 08/12/2025

**(S.R. Salunkhe)**

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