

MHPU010137872025



**Order below Exh. 45 in Spl. MCOCA Case No.1129/2025**

The accused **Rizwan @ Tipu Sattar Pathan**, 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. This Court was holding the charge of the Special Court MCOCA presided over by Shri. V.R. Kachare because he was deputed to work as OSD in the newly established Circuit Bench of the Hon'ble Bombay High Court at Kolhapur. The Hon'ble Principal District Judge, Pune directed this Court to decide the pending bail applications in that Court, when the parties are ready to argue. Accordingly, the bail applications of other accused in this case were heard and decided. In the meantime, my learned brother Shri. S.S. Kanthale was appointed to preside over the Special Court of Shri. V.R. Kachare and thus, this bail application was remained to be decided by this Court.

3. The learned advocate for the accused filed an application before the Hon'ble Principal District Judge, Pune to transfer this case to this Court and that application came to be rejected. The accused filed Cri. Writ Petition No.123/2026 before the Hon'ble High Court. That Writ Petition was decided on 05/02/2026 in favour of the accused and this case was ordered to be transferred to this Court along with the pending applications therein. Accordingly, this case has been transferred to this Court. All the accused in this case except this accused and co-accused Eajaj Pathan have been released on bail.

4. The alleged incident *prima facie* appears to be an outcome of land dispute. The informant Rupali Pardeshi lodged complaint against the accused namely Tipu Pathan and Ejaz Pathan (this accused and the accused No.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 erected thereon 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 connection with that incident.

5. Mr. B.H. Shaikh, the learned advocate for the accused has come with denial of any such incident and he 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.

6. He submits that an agreement of sale dated 16/07/2024 was executed between the accused Eajaz Pathan and Vinod Lonkar, by which, the accused Eajaj Pathan has agreed to purchase that plot for consideration of Rs.18,50,000/-. However, there was 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 plot 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.

7. 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. All other accused are already released on bail. The role of this accused is similar to those accused released on bail. Therefore, the ground of parity is accrued to this accused. He therefore, submits that this accused be released on bail. As regards criminal antecedents, the learned advocate has produced the copies of the judgments and orders showing that this accused has been acquitted from those cases. He is not convicted in any of the cases.

8. The IO has opposed this application by say (Exh.46) and based on it, Shri. Pathare, the learned SPP submits that all the accused in this case are the members of the organized crime syndicate of this accused Tipu Pathan is its kingpin. This accused was present at the spot at the time of alleged incident and he has demanded 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. The accused would indulge in

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

9. Having considered the rival submissions, the dispute *prima facie* appears to be of civil nature. The allegations were primarily against this accused Tipu Pathan and co-accused Eajaj Pathan. Other accused were subsequently identified and arrested. There is doubt whether the alleged incident is an act of the organized crime syndicate 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 this accused on bare contentions of I.O. 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 this accused is entitled to be released on bail on certain conditions. Hence, the order.

### ORDER

1. The application is allowed.
2. The accused **Rizwan @ Tipu Sattar Pathan**, who 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, 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 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.

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

Pune

Date: 16/02/2026

**(S.R. Salunkhe)**

Spl. Judge, MCOCA, Pune.