

**Order below Exh. 101 in Spl. Case No. 921/2021**

The accused **Vinod @ Tom Popat More** was arrested on 01/06/2021 in connection with C.R.No. 350/2021 registered in Baramati Police Station under Sec. 307, 120-B, 504, 506 of IPC, under Sec.3(25)(27) and 4 (25) of the Arms Act and under Sec.3(1)(ii), 3(4) of the Maharashtra Control of Organized Crimes Act,1999 (MCOCA). He has filed this application for bail under Sec. 439 of Cr.PC.. He contends that this is his first bail application and no other bail application is pending in any other Court.

2. This bail application has been filed on 10/11/2023. The prosecution filed say on this application on 04/12/2023. Since then, this application was pending for argument. When the learned advocate for the accused Shri S.S. Bhagwat was asked to argue this application, he was ready to argue. However, Smt. Ujjawala Pawar, the learned SPP submitted that further investigation of this crime has been entrusted with CID by the Hon'ble High Court and during pendency of such investigation, if this application is asked to be argued, that would amount to contempt of the order of the Hon'ble High Court. The learned advocate for the accused submits that this accused has nothing to do with further investigation directed by the Hon'ble High Court and there is no impediment in hearing and decision of this application.

3. The order of the Hon'ble High Court, which the learned SPP uses for putting this Court under fear of contempt is passed in Cri. Appeal No. 1075/2021, which was decided with W.P. No. 3595/2021 on 11/06/2024. It appears that during investigation of this crime, the accused No. 6- Jaydeep Taware was arrested on 06/07/2021. The

Investigating Officer filed report under Section 169 of Cr.P.C. on 21/07/2021, stating that no *prima facie* involvement of the accused Jaydeep Taware in the alleged crime has been disclosed. The informant filed protest petition against the said report. By hearing both the sides, my learned predecessor accepted the protest petition and refused to accept the report filed u/s 169 of Cr.P.C. and directed the Investigating Officer to carry further investigation considering the material against the accused No. 6 as mentioned in the order. The accused No. 6 preferred W.P. No. 3207/2021 before the Hon'ble High Court challenging the order passed by this Court. The said W.P. was dismissed on 06/10/2021 noting detailed considerations regarding the material available against the accused No. 6. Feeling aggrieved thereby, the accused No. 6 filed Spl. Leave Petition (Cri.) No. (s) 8135/2021 before the Hon'ble Supreme Court. However, the said SLP was also dismissed on 29/10/2021. Ultimately, the accused No. 6 was again arrested on 22/11/2021.

4. The Investigating Officer thereafter, filed the charge-sheet against accused Nos. 1 to 5 and filed the report u/s 169 of Cr.P.C. against the accused No. 6 reiterating the stand that no incriminating material has been found against the accused No. 6 during investigation. The informant again filed protest petition against the said final report. My learned predecessor heard both the sides and he again accepted the protest petition and rejected the report u/s 169 of Cr.P.C. filed against the accused No. 6. The Investigating Officer was again directed to carry investigation on the basis of material pointed out in the order and file charge-sheet against the accused No. 6. The accused No. 6 therefore, filed Cri. Appeal No. 1075/2021 against the said order. The informant and her injured husband filed Writ Petition No. 3595/2021 contending that the investigation of this crime has been conducted by three

Investigating Officers but every time, the report under Section 169 of Cr.P.C. is being filed against the accused No. 6, so as to protect him even though the material against him has been pointed out by this Court and the observations of this Courts have been accepted upto the Hon'ble Supreme Court. Thus, according to them, they have no trust on investigating agency that they would conduct the investigation in this crime fairly. They therefore, prayed that the investigation of the crime against accused No. 6 be handed over to CID.

5. The Hon'ble High Court decided both Cri. Appeal and Writ Petition with common order. The Hon'ble High Court found fault with the order of this Court directing the Investigating Officer to file chargesheet against the accused No.6 and that direction came to be set aside. The Hon'ble High Court reached to the conclusion that there would not be fair investigation at the hands of investigating agency against the accused No. 6 and the prayer of the informant and the injured deserves to be allowed. The Hon'ble High Court therefore, directed that the investigation against the accused No. 6 be transferred to CID, State of Maharashtra and it was further directed that the Addl. Director General of Police of State CID to appoint an officer not below the rank of Superintendent of Police and preferably from IPS cadre to investigate the present crime. The new Investigating Officer was directed to take into consideration the observations made by this Court in its orders dated 16/08/2021 and 09/12/2021 and the observations made by the learned Single Judge of the Hon'ble High Court in its judgment dated 06/10/2021 in W.P. No. 3207/2021 and also the observations made by the Hon'ble High Court in the said Cri. Appeal. It was also directed to take into consideration to role, if any, played by Shri

Ravindra Kale, as alleged by the informant and injured at the time of investigating the present crime.

6. Under the circumstance, it was quite surprising that the learned SPP, who appears to be senior and having sufficient experience to conduct the criminal trials and I am learnt that she has worked as the District Government Pleader makes a statement at the bar that dealing with this bail application would amount to contempt of the aforesaid order of the Hon'ble High Court. She was therefore, called upon to explain as to how dealing with the present bail application would amount to contempt of the aforesaid order of the Hon'ble High Court. She was unable to explain and ultimately, she agreed to argue the bail application. The attempt to put this Court under fear of contempt could have made, probably because, the learned SPP might be unaware of the fact that the person presiding over this Court is not a new comer but has been occupying a seat on dais since last 26 years, in different capacities right from the Court of the JMFC till the Court of Spl. Judge under MCOCA. Under these circumstances, this bail application has been lastly argued by both the sides.

7. This bail application was fixed for order yesterday on 17/03/2025 but the Investigating Officer i.e. the Superintendent of Police, CID Pune has filed report under Sec.169 of Cr.P.C. (Exh.128) stating that after investigation, no material has been found against the accused No.6- Jaydeep Taware. The said report is taken on record and the investigating papers are called from the Investigating Officer and the say of the informant was called on the said report. The learned Spl. PP was not present before the Court and it was submitted on her behalf that she is attending the Hon'ble High Court. Therefore, the report

(Exh.128) has not been filed through her. The then Investigating Officer has already filed say on this bail application and both the parties have argued on this application. Still, the present Investigating Officer has filed say (Exh.127) opposing this bail application. The say already filed by the Investigating Officer (Exh.104) and this say, in substance, are similar with some changes here and there. Actually, the scope of the investigation entrusted to the present Investigating Officer was to the extent of alleged involvement of the accused No.6 Jaydeep Taware in the crime. The earlier three Investigating Officers have carried the investigation and this accused Vinod @ Tom More has been arrested and chargesheet has been submitted against him. The present Investigating Officer was not even in picture at that time. So, the purpose of filing another say to oppose this application by the present Investigating Officer is unexplained. Nevertheless, his say can also be considered for just decision on the bail application.

8. This propels me to come to the alleged incident. The informant Rohini Taware is the wife of the injured Raviraj and she was present at the spot of incident. She was the member of Zilla Parishad, Pune and was active in politics and social work. The wife of the accused No.1 Prashant More namely Rekha was the member of Grampanchayat, Malegaon (Br.). Raviraj Taware was extending help to his wife in development work and they gained popularity, with which, Prashant More was dissatisfied. He was feeling that Raviraj Taware is getting all the contracts of public works by using political position of his wife and he is not getting any such contract. Raviraj Taware was responsible for his financial loss. He developed rivalry against Raviraj Taware and he started abusing, threatening and assaulting the workers of Raviraj Taware. Three months prior to the incident, the worker of Raviraj

Taware namely Rahul Gavhane was seriously assaulted by the accused No.1 to 3. Raviraj Taware extended help to Rahul Gavhane in that matter to ensure that the accused are arrested. Prashant More was believing that his son Akash was falsely implicated in that crime though he had no concern to that incident. The accused No. 1 to 3 had therefore, grudge in their mind about Raviraj Taware. They therefore, hatched conspiracy to eliminate Raviraj Taware.

9. On 31/05/2021 at about 6 p.m., the informant and her husband Raviraj were proceeding to the house of the brother of Raviraj to take back their daughter Jeeja. They ordered Vada-Pav to Sad Shaik and they reached to the house of Sad Shaikh to take delivery of the parcel of Vada-pav at about 6.45 p.m. by their car. The informant remained in the car and Raviraj Taware went to the house of Sad Shaikh. In the meantime, two boys came by their white coloured Bullet motorcycle and stopped near the car. The informant identified the pillion rider to be the son of Prashant More namely Akash (accused No.3). When Raviraj Taware was returning toward the car with Vada-pav parcel, Akash alighted from the motorcycle and fired a round from the gun in his hand. Raviraj Taware started running towards opposite direction and Akash tried to fire second round at him but it could not be fired. He shouted that he will not leave Raviraj alive and he would be eliminated. He then sat on the motorcycle and fled away from the spot. Raviraj Taware sustained bullet injury to his chest. Nearby people rushed to the spot and Dada Jarad and Saurabh Gaikwad took Raviraj Taware by their Alto car to Baramati hospital and then to Giriraj hospital. Raviraj Taware fortunately survived.

10. The informant lodged complaint against Prashant More, his brother Vinod @ Tom More (the present accused), Akash More (the

assailant who was the son of Prashant More) and unknown motorcycle rider (who identified to be Rahul @ Ribel Yadav- the accused No.4). The crime was registered and during investigation, the statement and supplementary statements of the injured Raviraj Taware were recorded. Based on the same, Ajinkya @ Pappu Bhosale and Jaydeep Taware were arrayed as the accused. The injured Raviraj Taware also named Ravindra Kale to be one of the conspirators but he was not made an accused. As, already stated, Jaydeep Taware has been exonerated from the crime by filing the report under Sec.169 of Cr.P.C. for three times.

11. Shri. S.S. Bhagwat, the learned advocate for the accused submits that this accused has no concern to the alleged incident and he is falsely implicated in this crime, merely because, he is the brother of Prashant More. His prosecution is politically motivated. He is arrested on the basis of self serving statement of the injured and the confessional statement of the co-accused Rahul Yadav, which itself is inadmissible under the law. To lend support, he relies on the judgment in ***Adnan Mulla v/s State of Maharashtra [2010 Cri.L.J. 1990]*** wherein, it is observed that by applying the settled legal principle, the confession of the co-accused cannot be read against the present appellant while considering his plea for bail. It shall be noted that the case was under POTA where there were no provisions like Sec.18 of the MCOCA.

12. The reliance was also placed on the judgment in ***Suraj Gade v/s State of Maharashtra [Bail A.No.445/2020]*** wherein, the bail was granted to the accused even though there was confessional statement of co-accused recorded under Sec.18 of the MCOCA, holding that such confessional statement being subject matter to be determined at the time of trial, the appellant is entitled to be released on bail.

13. The learned advocate for the accused further submits that this accused is not the member of any organized crime syndicate nor was indulged in any continuing criminal activity. The provisions of MCOCA have been applied only on the basis of some criminal antecedents against this accused, which were the offences in his individual capacity. Merely because this accused has criminal antecedents, that by itself is not sufficient to detain him in custody pending the trial. In support of this submission, he relies on the judgment in *Vijay Gophane v/s State of Maharashtra [Cri. Appeal No.3187/2024]*.

14. The learned advocate further submits that this accused is behind the bar since 01/06/2021. The charge is yet not framed and the trial of this case would take considerable time to conclude. The accused cannot be detained for uncertain period. He is the local resident of the address given and he is not at flight risk. He would abide by all the conditions those would be imposed by this Court. There is no material against this accused of his involvement in alleged crime, much less the crime under MCOCA. Therefore, the Bar under Sec.21(4) of MCOCA is not applicable to this accused. He therefore, prays that this accused be released on bail.

15. The Investigating Officer has opposed this application by his say (Exh.104). Smt. Ujjwala Pawar, the learned Spl.PP, during the course of her detailed arguments, had relied on certain rulings and she wanted to file written notes of her arguments. However, she could not file the same immediately on conclusion of her arguments. Yesterday, when this application was fixed for order, the learned Spl.PP. has filed a big compilation of rulings and her written notes of arguments (Exh.126) through her associate. It was not possible to go through the same and to

pass the order on this application forthwith. Consequently, the matter was required to be adjourned for a day and it is fixed today for order.

**16.** The thrust of the arguments of the learned Spl.PP was that this crime was an example of well planned conspiracy to eliminate Raviraj Taware and to escape from the clutches of law. She places heavy reliance on the statement of Amit Taware recorded under Sec.164 of Cr.PC., who was offered to become a part of that conspiracy but he refused saying that the matter to the extent of assaults to anybody would be okay but he would not be the member of any conspiracy to kill somebody. She draws the attention of this Court to the statement dated 08/06/2021 of Amit Taware and it discloses therefrom the he was called by the accused Prashant More to his house and the accused No.1 to 4 were present there. Prashant More told him that Raviraj Taware is to be killed as there is huge financial loss to him because of him. He has prepared a plan. His son Akash has not completed his 18 years of age and he is thus juvenile. He has handed over his pistol to Tom (the present accused). Akash will fire at Raviraj Taware by going with Rahul Yadav and Amit Taware shall keep watch on Raviraj Taware till he is eliminated. Prashant More would remain at Mumbai and Tom would remain at Kedgaon till the task is completed. Akash being the juvenile will not be sent in jail and Prashant More will take responsibility to get released Rahul Yadav from jail. This proposal was refused by Amit Taware.

**17.** According to the learned Spl.PP this is the strong material against this accused for his direct involvement in the crime. Besides this, There are the statements of other witnesses such as Shailesh Dandavate and Rahul Gavhane which discloses the direct involvement of this

accused in the alleged conspiracy. The accused No.4 Rahul Yadav has given confessional statement before Competent Authority incriminating this accused in alleged crime. Such statement is admissible under Sec.18 of the MCOCA and it can be relied on while dealing with bail application. Certain photographs are produced on record showing criminality of accused No.4 and 5 (Pappu Bhosale and Rahul Yadav who are representing themselves as “Yam” (transporter of departed soul).

18. Speaking about the criminal antecedents, the learned Spl.PP refers the crime chart. Prashant More is the gang leader against whom 11 crimes have been registered and 10 crimes have been registered against this accused Tom More. According to her, this would be sufficient to *prima facie* establish that this accused is the member of the organized crime syndicate and his involvement in continuing unlawful activities is explicit. The provisions of MCOCA are therefore, rightly applied against the accused. Therefore, the twin conditions under Sec.21(4) of MCOCA i.e. this accused has not committed the offence under this Act and he would not commit such offence if released on bail have not been satisfied by this accused to get himself released on bail.

19. The learned Spl.PP submits that the entire investigating papers and material collected during investigation is required to be considered while deciding this bail application. To lend support, she relies on the judgment in *NIA v/s Zahoor Ahamad Shah [AIR 2019 SC 1734]*. In *Kavita Lankesh v/s State of Karnataka [AIR 2021 SC 5113]* the issue of prior approval under Karnataka Control of Organized Crimes Act,2002 was discussed. No such point is put to contest before this Court and therefore, no detailed reference to this judgment is required. In *Zakir Mirajkar v/s State of Maharashtra [AIR ONLINE 2022 SC 1325]* it

is held that the confession recorded by an additional Superintendent of Police is admissible in evidence. The judgment in *Girraj v/s Kiranpal [2021 DGLS (SC) 154]* is on the point of cancellation of bail and is not relevant for the purpose of the application seeking bail. Similarly, the judgment in *Govind Ubhe v/s State of Maharashtra [2009 ALL MR (Cri.)1903]* is on the point of discharge.

20. The apt ruling relied on is in *State of Maharashtra v/s Vishwanath Maranna Shetty [MANU/SC/0982/2012]*. The para 44 and 45 are relevant for the purpose of this application which read as under-

“44. The wording of Section 21(4), in our opinion, does not lead to the conclusion that the court must arrive at a positive finding that the applicant for bail has not committed an offence under the Act. If such a construction is placed, the court intending to grant bail must arrive at a finding that the applicant has not committed such an offence. In such an event, it will be impossible for the prosecution to obtain a judgment of conviction of the applicant. Such cannot be the intention of the legislature. Section 21(4) of MCOCA, therefore, must be construed reasonably. It must be so construed that the court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. Similarly, the court will be required to record a finding as to the possibility of his committing a crime after grant of bail. However, such an offence in futuro must be an offence under the Act and not any other offence. Since it is difficult to predict the future conduct of an accused, the court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence.

46. The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like MCOCA having regard to the provisions contained in Sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby.”

21. The reliance is also placed on the judgment in *State of Maharashtra v/s Pankaj Gangar [Cri. Appeal No.1493/2021]* wherein, the order of interim bail granted by the Hon’ble High Court was set aside considering the serious nature of the offence. Late Rajiv Gandhi assassination case in *State of Tamil Nadu v/s Nalini* has been relied on but it has no reference to MCOCA. The judgment in *State of Maharashtra v/s Ajay Raghuram [2006 ALL MR (Cri.) 1999]* is on the point of the evidence of approver.

22. Having anxiously heard the prosecution and the defence advocate, I am of the considered view that this accused cannot claim himself foreign to the conspiracy to kill Raviraj Taware, on the face of incriminating material against him as referred above. His presence at the conspiracy is explicit from the statement of the witnesses. He may not have played any active role in actual assaults to the injured but he was one of the brains behind the scene to accomplish the task. Therefore, his liability attracts under 120-B of IPC. The confessional statement of the

co-accused may not be conclusive against this accused but it is certainly material evidence against him. The criminal track record of this accused does not convince the judicial mind of this Court to believe that this accused has not committed the offence under MCOCA and that he would not commit any offence under the Act, if released on bail. The twin conditions in Sec.21(4) of the MCOCA are not attained by this accused and therefore, the bar to release him on bail would attract against him. The application therefore, remains devoid of merit and thus, it is liable to be rejected. Hence, the order.

**ORDER**

The Bail application is rejected.

Pune  
Date: 18/03/2025

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