

MHSO010021282025



**IN THE COURT OF SPECIAL JUDGE SOLAPUR,
AT SOLAPUR**

SPECIAL CASE NO.207/2025

Basanna Sattu Shinde,
Age: 30 years, Occu. Labour,
R/o.Ghondali Wasti,
Shivaji Nagar, Solapur ... **Applicant/accused**

Versus

The State of Maharashtra ... **Non Applicant/prosecution**

**ORDER BELOW (EXHIBIT No.07)
(14/10/2025)**

1. Perused application, say and papers of investigation. Heard Learned Adv. Miss. Nilam Wadekar, for applicant/accused and learned APP Mrs. M. M. Deshpande, for State.
2. Present application is filed by the applicant/accused for grant of bail in regard to the offences punishable under Sections 309(4), 351(2) r/w. Sec. 3(5) of B.N.S. and U/s. 3(1)(ii), 3(2), 3(4) of MCOCA, registered vide C.R. No.571/2024 at Jail Road Police Station, Solapur.

3. It is the case of the prosecution that, informant Arjun Mujgound lodged report dated 26.12.2024 at Jail Road Police Station. It is alleged that, on 25.11.2024 at about 11.00 p.m. the informant had brought forty onion bags and 10 bag udid for sale at Solapur Market Yard by pickup van bearing registration No.KA-28/AA-4212. The informant had unloaded the onion bags and parked pickup van near the shop of Raichurkar and he went asleep in the said vehicle. On 26.11.2024 at 3.00 a.m. applicant and co-accused arrived there by white colour Maestro and grey colour Honda Shine Motorcycle. The applicant and co-accused started unloading the udid bags kept in the pickup vehicle of the informant. The informant alight from the vehicle to see who is there. On that accused No.2 Akshay Kamble caught hold collar of the informant. Present applicant/accused No.1 removed one knife from the dicky of the maestro vehicle kept it on the neck of informant. Accused No.3 Suraj @ Bhaiyya Surwase forcibly removed mobile phone worth Rs.12,000/- and cash amount of Rs.3,600/- from the pocket of informant. Thereafter all the accused went away from there by said motorcycles.

4. On the basis of report lodged by the informant CR. No.571/2024 came to be registered at Jail Road Police Station for the offence u/s.309 (4), 351(2) r/w. 3(5) of B.N.S. against unknown persons. During course of investigation applicant and co-accused were found involved in the commission of crime. The

charge-sheet shows that the applicant came to be arrested on 08.02.2025. As per the prosecution the applicant and co-accused are members of organized crime syndicate headed by the present applicant. On 04.04.2025 prior approval as per the provisions of Section 23(1)(a) of MCOC Act came to be accorded against applicant and co-accused. On 02.07.2025 Additional Director General of Police (L & O) M.S. Mumbai accorded sanction as per Section 23(2) of MCOC Act against the applicant and co-accused. After completion of investigation charge-sheet came to be filed against the applicant and co-accused for the offence u/s. 309(4), 351(2) r/w. Sec. 3(5) of B.N.S. and U/s. 3(1)(ii), 3(2), 3(4) of MCOC Act.

5. Learned advocate for the applicant submitted that applicant is falsely implicated in the crime. He has no concern with the alleged offence. There is delay in lodging FIR. Delay caused is not explained. The applicant is arrested on the basis of suspicion. The alleged incident said to occur during night hours. There is no possibility to identify the accused. The test identification parade is doubtful. She submitted that the learned Magistrate granted bail to the applicant on 27.03.2025 for the B.N.S. offences. However, in the meantime the investigating officer added offences under the provisions of M.C.O.C. Act. The ingredients of provisions of MCOC Act are not satisfied. The applicant is not member of organized crime syndicate. Mere filing of previous charge-sheets and past

criminal antecedent, it does not satisfy the requirement of MCOCA Act. There is no nexus between applicant and co-accused and previous charge-sheets. It is contended in the bail application that there is no sanction accorded against the applicant. She submitted that applicant is acquitted from Sessions Case No. 136/2022. She placed on record photocopy of judgment dated 18.11.2022 passed in Sessions Case No.136/2022. Hence, she prayed for grant of bail to applicant.

6. The learned advocate for the applicant placed reliance on the following case laws:-

1. **Mohammed Afsar Sayyed @ Andu Vs. The State of Maharashtra, 2025 ALL MR (Cri) 3125.** In this case, Hon'ble Bombay High Court pleased to grant bail to the applicant, observing that applicant is in custody for almost 06 years 11 months and 20 days, there is no possibility of the trial concluding in near future, and considering the merits of the case.

2. **Shri. Girish Kumaran Nayar Vs. The State of Maharashtra, 2021 ALL MR (Cri) 1409.** Where Hon'ble Bombay High Court pleased to hold as under:-

*“13. It may be stated, that mere number of filing charge-sheet in the past is not in enough. It is only one of the requisites for constituting organised crime. It has been observed in **Prafulla** (Supra) that if only the*

past charge-sheets were to be enough to constitute offence of organised crime, it could have offended the requirement of Article 20(1) of the Constitution and possibly Article 20(2) as well. Here the prosecution has just relied on the previous offences at the discredit of the applicant and nothing more. To constitute continuing unlawful activity following are requirements of law:

“i. more than one charge-sheet, alleging commission of cognizable offence punishable with imprisonment of three years or more;

ii. a charge-sheet should consist of averments, alleging unlawful activity undertaken either singly or jointly by the accused;

iii. as a member of organized crime syndicate or on behalf of such syndicate.

iv. the cognizance of such offence is taken by the competent court.”

Thus, in order to bring an alleged act within the ambit of MCOC Act, the above mentioned requirements are mandatory. Therefore, word "in respect of which" in definition of clause of "continuing unlawful activity" indicates that it is not a normal charge-sheet, alleging commission of cognizable offence but requirement is that alleged acts is undertaken either singly or jointly by the accused, who is member of organised crimes syndicate or is undertaken on behalf of such syndicate. In the case in hand, no efforts were made by the

*prosecution to show that past two offences in respect of which charge-sheets were filed, were committed by the applicant as member of organised crime syndicate, i.e., acting as syndicate or a gang or on behalf of such syndicate. In **Ranjeetsingh Brahmajeetsing Sharma v. State of Maharashtra & Anr., (2005) ALLMR (Cri) 1538 (S.C.)**, it is held, the unlawful activity alleged in the previous charge-sheets should have nexus with the commission of the crime which MCOCA seeks to prevent or control. Thus, it was imperative on part of the prosecution to establish prima-facie some nexus between the past crimes at the discredit of the applicant and the present crime, which has not been shown by the prosecution nor the material on record suggests and indicates such nexus”.*

3. Prabhakar Tewari Vs. State of Uttar Pradesh and Anr, AIR Online 2020 SC 96. The Ld. Advocate for the applicant pointed out Headnote as under:-

“Criminal P.C.(2 of 1974). S. 439- Penal Code (45 of 1860), S. 302- Bail- Grant of – Murder trial- though offence alleged is grave and serious and several criminal cases is pending against accused- However these factors by themselves cannot be basis for refusal for bail- High Court exercised its discretion in granting bail to accused upon considering relevant materials- No ex-facie error in order of granting bail- Order of High Court granting bail, proper”.

7. Per contra, vide say filed at Exhibit 8 learned APP opposed the application. It is contended in the say that the applicant and co-accused in furtherance of their common intention committed the said offence. There is active involvement of the applicant in commission of the crime. There is possibility of bringing pressure on the prosecution witnesses and commission of such type of offences, if the applicant is released on bail. The applicant is habitual offender having criminal antecedent. The Ld. A.P.P. submitted that two motorcycles stolen in previous crimes are seized under the panchnamas from the accused persons. She submitted those motorcycles were used in the commission of the present crime. The applicant is main accused. There is organised crime syndicate. There is nexus between previous crime and present offence. The applicant is the leader of the organised crime syndicate. The test identification parade of the accused was conducted. The informant identified the accused persons during test identification parade. She submitted that, there are above 37 crimes registered against the applicant. There is ample material against the applicant and co-accused. Hence, prayed for rejection of the bail application.

8. She also placed reliance on the following case laws:-

1. **Surender Mann Vs. State Through Sho., Bail Appln. No.1863/2023.** Wherein it is held as under:-

“16. Section 21(4) of the MCOCA lays down the conditions for grant of bail for a person charged under the provisions of the MCOCA. The twin conditions, which are pari materia with Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, provide that the Court should be satisfied that:

- (i) there are reasonable grounds for believing that the petitioner has not committed an offence and,*
- (ii) he is not likely to commit an offence while on bail.*

Both the aforesaid conditions have to be satisfied before the grant of bail. Therefore, based on the material on record, the Court has to arrive at a prima-facie view regarding the aforesaid.

17. A Co-ordinate Bench of this Court in Kamlesh Kothari (supra), while considering an application for grant of bail in proceedings under the MCOCA, has held as under:

"75. It is a settled proposition that such provision do not impose complete restriction on the grant of bail. It is also a settled proposition that at this stage the court cannot evaluate the material on the scale which is required at the time of the conclusion of the trial. The court has not to record the finding of guilt or acquittal at this stage. The court is only required to see that whether there are reasonable grounds to believe that the accused persons have not committed offence. The reasonable grounds as stated above are more than prima facie grounds. It can also be

said that at this stage, the court has to see the preponderance of probabilities. If there is preponderance of probabilities that the accused can be convicted on the material available, the bail is liable to be rejected.

76. It is a settled proportion that at the stage of bail, the meticulous examination of evidence is not required at this stage so as to not cause any prejudice to the parties. The probative value of the witnesses also cannot be examined at this stage. At the stage of bail, the mini trial is totally prohibited. This court therefore has not entered into the detailed discussion on the statement of the witnesses and the disclosure/confessional statement of the accused persons. However, the record amply indicates that Leena Paulse was involved in the organized crime syndicate. It is unbelievable that such huge amount of money were coming in her account and she was accepting the same only as a dutiful wife. It does not appeal to the reason that the high end cars were being purchased, the flights were being taken on charter without having any knowledge about free flow of money. It is beyond comprehension that a lady who is well educated will not know the source of money. The other grounds taken by the petitioner relating to her Fundamental Rights and right to be mother are liable to be rejected as she does not fulfill the twin conditions as laid under Section 21(4) MCOCA. It is also pertinent to note that her husband is also in custody."

9. Perusal of the charge-sheet it is alleged as under:-

“ यातील फियर्यादी अर्जुन मल्लाप्या मुजगोंड वय २५ वर्षे हे मु.पो. लच्यान ता. इंडी जि. विजयपूर राज्य कर्नाटक येथील रहिवासी आहेत. दिनांक २५/१०/२०२४ रोजी रात्री २३.०० वा. चे सुमारास फियर्यादी हे त्यांचे पिकअप वाहन क्रंमाक केए/२८/एए/४२१२ मधून ४० पोती कांदा व १० पोती उडीद, असे विक्रीसाठी सोलापूर मार्केट यार्ड येथे घेऊन आले होते. त्यानंतर कांदाची पोती खाली करुन फियर्यादीनी त्यांचे पिकअप वाहन हे रायचूरकर दुकानाचे जवळ उभे केले व ते वाहनात झोपले. दिनांक २६/११/२०२४ रोजी पहाटे ०३.०० वा. चे सुमारास यातील आरोपी नामे (१) बसण्णा सत्तू शिंदे, वय-३० वर्षे, रा. न्यू शिवाजीनगर गोंधळेवस्ती सोलापूर (२) अक्षय सिताराम कांबळे, वय-२४ वर्षे, रा. भारतरत्न इंदिरा गांधीनगर, गेटयाल टॉकीजचे मागे ७० फुट रोड सोलापूर, (३) सुरज उर्फ भैय्या गुंडप्पा सुरवसे, वय-२४ वर्षे, रा. ७९ सरवदे नगर विडी घरकूल सोलापूर, असे त्यांचे पांढ-या रंगाचे मॅस्ट्रो व ग्रे रंगाचे शाईन मोटार सायकलवरुन सदर ठिकाणी आले. आरोपी क्रमांक १ ते ३ असे फियर्यादीचे पिकअप वाहनामधून उडीदाचे पोती खाली उतरुन घेत असलेचे फियर्यादीचे लक्षात आल्याने फियर्यादीने वाहनातून खाली उतरुन पाठीमागील बाजूस जावून, कोण आहे, अशी विचारणा केली असता, आरोपी क्रमांक १ ते ३ असे पिक वाहनातून खाली उतरले. आरोपी क्रं. २ अक्षय सिताराम कांबळे याने फियर्यादीची गच्ची पकडली, आरोपी क्रं. १ बसण्णा सत्तू शिंदे याने त्याचे मॅस्ट्रो गाडीचे डीक्कीमधून चाकू काढून फियर्यादीचे गळयाला लावला. आरोपी क्र. ३ सुरज उर्फ भैय्या सुरवसे याने जबरदस्तीने फियर्यादीचे खिशातील मोबाईल फोन (कि, अं. १२,०००/-रुपये) व रोख रक्कम ३,६००/- रुपये असा एकूण १५,६००/- रुपयेचा मुद्देमाल काढून घेवून त्यांचे वरील दोन मोटार सायकलवरुन निघून गेले आहेत

सदर गुन्ह्यातील आरोपी क्र. १ ते ३ यांचा गुन्हेगारी अभिलेख पडताळणी केला असता त्यांचेविरुद्ध जबरी चोरी व दरोडाची तयारी सारखे ३ वर्षापेक्षा जास्त शिक्षा असलेले (१) जेलरोड पोलीस ठाणे गुरनं. २०३/२०१६ भादंविस कलम ३९४,४११ (२) जोडभावी पेठ पोलीस ठाणे गुरनं. ९७६/२०२० भादंविस कलम ३९४,३२३,३४ (३) जेलरोड पोलीस ठाणे गुरनं. १३३८/२०२० भादंविस कलम ३९९ सह आर्म कायदा कलम ४,२५ सह म.पो. का. कलम १३५,१४२ (४) एम.आय.डी.सी. पोलीस ठाणे गुरनं. १३९/२०२० भादंविस कलम ३९२,३४ (५) एम.आय.डी.सी. पोलीस ठाणे गुरनं. ८४/२०२१ भादंविस कलम ३९४ (६) एम.आय.डी.सी. पोलीस ठाणे गुरनं. ६८५/२०२२ भादंविस कलम ३९७, ३२३, ४२७, ५०४, ५०६ (७) जोडभावी पेठ पोलीस ठाणे गुरनं, १८२/२०२३ भादंविस कलम ३९२,३४ प्रमाणे गुन्हे दाखल असून सदर गुन्ह्यांचे तपासामध्ये सक्षम न्यायालयात दोषारोपपत्रे दाखल करण्यात आली असून त्याची संबंधीत

न्यायालयांनी दखल घेतली आहे.

याशिवाय आरोपी क्र. १ बसणा सत्तु शिंदे याचेविरुद्ध पोलीस आयुक्तालय, सोलापूर शहर मधील विविध पोलीस ठाण्यास सन २०१५ ते सन २०२४ या कालावधीत मालाविषयी व शरीराविषयी एकूण ३७ गुन्हे दाखल असून दाखल गुन्ह्यांपैकी एम.आय.डी. सी. पो.स्टे. गुरनं. १७२/२०१५ भांदविस कलम ३८०, ४५७ (आर.सी.सी. नं. ३०१०५५/२०१५), एम.आय.डी. सी. पो.स्टे. गुरनं. २०९/२०१५ भांदविस कलम ३८०, ४५७ (आर.सी.सी. नं. ३०१०६१/२०१५), एम.आय.डी.सी. पो.स्टे. गुरनं. ३३५/२०१६ भांदविस कलम ४५४, ४५७, ३८०, ३४ (आर.सी.सी. नं. १३३८/२०१६) यामध्ये दोषसिध्दी झालेली आहे. ”

10. The prosecution relied upon report lodged by the informant. There are specific allegations that accused persons committed robbery on the point of knife and took away mobile phone and amount of Rs.3,600/- of informant. It is contended in the report that the informant could not lodge the report initially as he was frightened. There is also reference that accused gave threat to kill the informant on disclosure about the incident. It appears that the informant lodged report only after his friends and relatives asked him not to be afraid and lodge the report about the incident, so it appears that even though there is delay in lodging the report, it is explained in the same.

11. The prosecution relied upon memorandum dated 13.03.2025 in regard to test identification parade of the applicant conducted by the Revenue Naib Tahsildar at Solapur Prison. The memorandum shows that the informant identified the applicant. The prosecution also relied upon another memorandum dated

04.03.2025. It shows that the informant also identified co-accused. The prosecution produced statement of informant recorded u/s. 183 of B.N.S.S.

12. The prosecution relied upon memorandum and seizure panchnama dated 12.04.2025. It shows that the knife used in the crime is produced at the instance of co-accused Akshay Kamble. Prosecution relied upon the seizure panchnama dated 28.11.2024. It shows that white colour maestro motorcycle chasis No.MBLJFW016JGG02749, Engine No.JF33ABJGG01278, one mobile of Vivo company model Y-22, another blue colour Samsung Galaxy A3 Mobile are seized from the applicant. Further it shows that one grey colour Honda Shine Motorcycle bearing registration No.MH-13/CN-8092 and Samsung Galaxy A-22 Mobile is seized from the co-accused Akshay Kamble.

13. The prosecution also relied upon prior approval dated 04.04.2025 accorded as per the provisions of Section 23(1)(a) of M.C.O.C. Act and sanction dated 02.07.2025 accorded as per Section 23(2) of MCOC Act.

14. Considering the charge-sheet there is ample material which shows about the involvement of the applicant and co-accused in the commission of the crime. Prima facie it appears that there is nexus between the present crime and the previous offences committed by the applicant and co-accused. There are no

reasonable grounds put forth for believing that the applicant has not committed the alleged offence and there is no likelihood of commission of further offence if the applicant is released on bail. I have gone through the case laws relied by the Ld. Advocate for the applicant and Ld. A.P.P. With great respect to the ratios laid down, the case laws relied by the Ld. Advocate for the applicant are not helpful to the applicant at this stage. The case law relied by the Ld. A.P.P. is applicable in the present matter. In view of the seriousness of the offence and specific allegations made against the applicant in regard to involvement in crime, he is not entitled for grant of bail. Hence, I proceed to pass following order.

ORDER

1. The Bail Application Exh.07 is rejected and disposed of.

(Dictated and pronounced in open Court)

Date: 14/10/2025.

(R. J. Katariya)
Special Judge, Solapur.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/Order.

- (a) Name of the Stenographer : S.R.Kore, Stenographer G-1.
- (b) Court : R. J. Katariya,
District Judge – 1 & Addl.
Sessions Judge, Solapur.
- (c) Order signed by P.O. on : 14/10/2025
- (d) Order uploaded on : 14/10/2025