

(2025) 11 DEL CK 1975

In the Delhi High Court

Case No : Bail Application No. 3001 Of 2025

Jagdeep @ Sonu

APPELLANT

Vs

State Of Nct Of Delhi

RESPONDENT

Date of Decision : 28-11-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 483, 528
Indian Penal Code, 1860 — Section 120B, 148, 149, 186, 216, 302, 307, 353, 364A
Maharashtra Control of Organized Crime Act, 1999 — Sections 2(1)(e), 2(1)(f), 3, 3(1), 3(4), 3(5), 4, 18, 21(4), 21(4)(b), 23(1)(a)
Arms Act, 1959 — Section 25, 54, 59

Citation : (2025) 11 DEL CK 1975

Hon'ble Judges : Sanjeev Narula, J

Bench : Single Bench

Advocate : Arun Khatri, Shelly Dixit, Tracy Sebastian, Pranavjeet Singh, Amit Ahlawat

Final Decision : Disposed Of

Judgement

Sanjeev Narula, J

1. This bail application under Sections 483 read with 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 "BNSS" seeks regular bail in proceedings emanating from FIR No. 55/2016 dated 19th April, 2016, registered at P.S. Crime Branch, under Sections 3/4 of the Maharashtra Control of Organized Crime Act, 1999 "MCOCA". By a supplementary chargesheet, the Applicant has been implicated under Sections 3(1)/ 3(4)/3(5) of MCOCA.

CASE OF PROSECUTION:

2. The factual background leading to the filing of the present application is summarised as follows:

2.1. The FIR in question was registered against one Manoj @ Morkheri and his associates, alleged to be members of a structured and well-organised criminal

syndicate operating in Delhi-NCR and adjoining States. The syndicate is stated to have been involved in a series of grave offences, including murder, kidnapping for ransom, extortion, robbery, and attempt to murder, committed through acts of violence, intimidation and other unlawful means, with the object of securing pecuniary benefit and undue economic advantage. The sustained pattern of such criminal activity is alleged to have created an atmosphere of fear and insecurity in the region, with the members of the syndicate acting either individually or in concert, as part of, or on behalf of, an organised crime network.

2.2. The subject FIR came to be registered pursuant to a proposal seeking approval under Section 23(1)(a) of MCOCA, in view of the continued and systematic criminal activities attributed to the syndicate. It is alleged that Manoj @ Morkheri, in concert with his associates, has been engaged in "organised crime" within the meaning of Section 2(1)(e) of MCOCA, primarily for pecuniary gain, and that the group constitutes an "organised crime syndicate" as defined under Section 2(1)(f). The network is alleged to function with a high degree of coordination and to exert influence over the area through a sustained pattern of serious offences.

2.3. The Applicant was absconding and evading arrest, which led to the issuance of non-bailable warrants. He was apprehended on 4th February, 2019 and has since remained in custody. Upon completion of investigation, the case was committed to the Court of the Additional Sessions Judge, Rohini Courts, where the trial is presently at the stage of prosecution evidence.

2.4. According to the prosecution, the Applicant is an active member of the said syndicate and has participated in serious crimes, including murder, attempt to murder, kidnapping for ransom and criminal intimidation, across multiple jurisdictions. He stands convicted in FIR No. 356/2018, P.S. Sadar Hansi, Hisar, Haryana, under Sections 186, 353 and 307 IPC and Section 25 of the Arms Act. He has also been named and arrested, along with co-accused Manoj @ Morkheri, in FIR No. 497/2011, P.S. Prashant Vihar, registered under Sections 364A/120B IPC. On this basis, the prosecution asserts that the Applicant is a habitual offender and an integral part of the organised crime syndicate, and that his release on bail would be inimical to public interest.

ARGUMENTS ADVANCED BY THE APPLICANT:

3. Counsel for the Applicant advances the following submissions seeking grant of regular bail:

3.1. Long Period of Custody and Delay in Trial: The Applicant was arrested on 4th February, 2019 and has remained in custody for nearly 7 years. Out of the 140 prosecution witnesses cited, only 88 have been examined thus far. The protracted nature of the trial, which cannot be attributed to any delay on the part of the Applicant, ought to weigh in favour of granting him bail. The Supreme Court has consistently held that even in cases involving special statutes like MCOCA, stringent bail conditions can be relaxed when the accused has

undergone long periods of incarceration.

3.2. Lack of Evidence to satisfy twin conditions under MCOCA: To invoke Sections 3 and 4 of MCOCA, the Prosecution must establish two essential elements: (i) continuing unlawful activity, and (ii) involvement of the accused in an organised crime syndicate for pecuniary gain 'Prasad Shrikant Purohit v. State of Maharashtra and Ors., MANU/SC/0449/2015'. Neither of these elements is made out in the present case against the Applicant.

3.3. Absence of evidence to establish Continuing Unlawful Activity and membership in an Organized Crime Syndicate: To attract the provisions of MCOCA on the ground of "continuing unlawful activity" and membership of an "organised crime syndicate", it is essential that the statutory preconditions are satisfied. Section 2(1)(d) of MCOCA contemplates, inter alia, that there must be at least two charge-sheets in respect of offences punishable with three years or more, filed within the preceding ten years, in which cognizance has been taken by a competent court. The proposal for invoking MCOCA, in so far as it concerns the Applicant, rests substantially on his implication in FIR No. 497/2011 registered at P.S. Prashant Vihar, Delhi. That foundation now stands materially eroded, as the Applicant has been acquitted in the said case by judgment dated 29th May, 2025 passed by the Court of ASJ-04, Rohini Courts, Delhi. Apart from this, there is no other case in which multiple charge-sheets, culminating in cognizance, can be pointed to for the purpose of satisfying the requirement of "continuing unlawful activity" attributable to the Applicant. As regards the other cases cited by the Prosecution in the status report, the record indicates that the Applicant has been acquitted in the majority of those proceedings. In these circumstances, the statutory threshold for demonstrating his sustained involvement in continuing unlawful activity, as a member of an organised crime syndicate, is prima facie not met.

3.4. Absence of Pecuniary Gain: The chargesheet is silent on the pecuniary advantage gained by the Applicant. As such, the essential ingredients of MCOCA have not been satisfied in this case, and no evidence has been shown to establish that the Applicant profited from any criminal activity.

3.5. Parity with Co-Accused Granted Bail: The Applicant is entitled to bail on the principle of parity. Two co-accused persons, namely Sumit @ Sam and Anil Kumar @ Ganja, have already been granted bail by the Sessions Court. Three other co-accused, namely Arun, Jitender Dixit @ Bantu and Naresh Kumar @ Pahelwan, have also been granted regular bail by this Court.

3.6. Confessional Statements-Lack of Corroborative Evidence: The Prosecution has placed reliance on the confessional statements of co-accused Manoj @ Morkheri, Anil, Rohit @ Rahul and Parvesh Grewal under Section 18 MCOCA. However, these confessional statements cannot be relied upon as evidence against the Applicant, especially given that these statements are not substantiated by any corroborative evidence and were also not true or voluntary.

These statements were immediately retracted and denied by the co-accused persons, stating that they had not provided any statement under Section 18 MCOCA, and that their signatures were obtained on blank papers under threat. These statements, therefore, do not carry any evidentiary value.

ARGUMENTS ADVANCED BY THE STATE:

4. Mr. Amit Ahlawat, APP for the State, strongly opposes the application and advances the following submissions:

4.1. Grave Criminal Antecedents and Invocation of MCOCA: The present case is being investigated under MCOCA, which is a special legislation aimed at curbing organised criminal syndicates. The proposal for invoking MCOCA under Section 23(1)(a) was approved by the competent authority on the basis of multiple FIRs involving the Applicant and his associates, dating back to 2011. These cases reflect a pattern of organised criminal activity committed for pecuniary gain through means such as violence and intimidation. The proposal specifically highlighted cognizance of more than one chargesheet against members of the alleged crime syndicate. A summary of these cases is set out in the chargesheet as well as the supplementary chargesheet.

4.2. Risk of Absconding/ Witness Intimidation: The Applicant's previous criminal record clearly establishes that he is a hardcore criminal. Moreover, following the invocation of MCOCA and the registration of the present FIR, the Applicant absconded, giving rise to significant apprehension that, if granted bail, he may attempt to abscond or evade justice. Additionally, considering the serious nature of the allegations and the Applicant's past conduct, there is a reasonable apprehension that he may commit further offences or attempt to influence witnesses, thereby justifying his continued detention.

4.3. Misplaced Reliance on Parity: The Applicant's claim for bail on the ground of parity with the co-accused is wholly untenable. Unlike the co-accused, the Applicant remained absconding for nearly four years and was apprehended much later. As a result, while the co-accused had undergone approximately 8 to 10 years of custody at the time bail was granted to them, the Applicant has undergone only about 6 years and 9 months of incarceration. Therefore, the Applicant stands on a completely different and more serious footing compared to the other co-accused persons who have been released on bail. The Courts have repeatedly emphasised that parity must be assessed contextually, keeping in view the nature of individual roles and criminal antecedents.

ANALYSIS:

5. The Court has carefully considered the submissions advanced by the parties as well as perused the record. Section 21(4) of MCOCA imposes stringent conditions for granting bail, stipulating as follows:

"(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his

own bond, unless—

(a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

6. Sub-clause (b) of Section 21(4) mandates that before granting bail, the Court must be satisfied that there exist reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The satisfaction of both limbs is a sine qua non for the grant of bail under the statute and constitutes an elevated threshold compared to ordinary bail jurisprudence. The threshold is therefore substantially higher than under general criminal law, and the Applicant’s antecedents, conduct and role in the alleged syndicate become especially significant. The record shows that the impugned FIR was registered on 19th April, 2016, after approval was granted under Section 23(1)(a) to invoke MCOCA. Co-accused were apprehended between April and August 2016, and the chargesheet came to be filed on 17th October, 2016. The Applicant, however, remained absconding throughout this period and could be arrested only on 4th February, 2019. This prolonged evasion from the process of law is a relevant factor when assessing whether the statutory twin test under Section 21(4) stands satisfied in his favour.

7. In fact, on account of the Applicant’s sustained non-appearance, non-bailable warrants were issued, followed by proclamation proceedings under Section 82 Cr.P.C., culminating in his being declared a proclaimed offender on 18th September, 2017. Despite these coercive measures, he did not present himself before the Court. He was ultimately arrested on 4th February, 2019, almost four years after registration of the FIR, and even then, not pursuant to any voluntary surrender or compliance with the processes issued in this case. His arrest followed information received by the investigating agency that he had been taken into custody in another matter, FIR No. 356/2018, P.S. Sadar Hansi (Haryana), in which he had been arrested on 10th December, 2018. The Applicant’s conduct during this period of abscondence is further compounded by the fact that he now stands convicted in the said Haryana case for offences under Sections 307, 353 and 186 IPC, as well as Sections 25, 54 and 59 of the Arms Act.

8. The record, therefore, discloses not merely a prolonged and deliberate evasion of the lawful process in the present case, but also the commission of a subsequent serious offence during the very period of abscondence. These circumstances go to the heart of the statutory test under Section 21(4)(b) of MCOCA. Having regard to the Applicant’s past conduct, including his sustained disregard for judicial process and his demonstrated propensity to reoffend, this Court is unable to find any credible assurance that he is unlikely to commit an offence if enlarged on bail. Consequently, the satisfaction contemplated under

Section 21(4)(b) of MCOCA cannot, on the present material, be recorded in his favour.

9. The Applicant next relies on the length of custody to seek indulgence, pointing out that he has remained in judicial custody for nearly seven years and that the trial is progressing slowly, with only 88 out of 140 prosecution witnesses examined so far. There can be no quarrel with the principle that prolonged incarceration and delay in conclusion of trial are relevant considerations in bail adjudication, even under special statutes. However, those factors cannot be viewed in isolation. In the Applicant's case, the long period of custody is preceded by almost four years of abscondence and is accompanied by a subsequent conviction for a serious offence committed during that very period. In this backdrop, the duration of custody, by itself, does not furnish a sufficient basis to dilute the statutory rigour of Section 21(4) of MCOCA in his favour.

10. The Applicant has also invoked the principle of parity, contending that co-accused Arun, Jitender Dixit @ Bantu and Naresh Kumar @ Pahelwan have been granted bail by this Court on the ground of prolonged incarceration, and that he is similarly situated. The record, however, indicates otherwise. At the time when bail was granted to the said co-accused, they had undergone incarceration of approximately 8 to 10 years, whereas, as per the latest nominal roll dated 8th September, 2025, the Applicant has undergone 6 years, 7 months and 5 days in custody; as on date, his total custody stands at about 6 years and 10 months.

11. It is well settled that parity is a relevant but not a determinative factor in bail; it cannot be applied mechanically, divorced from the individual role, antecedents, and conduct of each accused 'Tarun Kumar v. Enforcement Directorate, (2024) 13 SCC 788; Neeru Yadav v. State of U.P., (2014) 16 SCC 508'. This Court does not intend to treat the issue as a mere numerical comparison of years spent in custody. However, the shorter duration of incarceration in the Applicant's case, taken together with his distinct conduct, is material. Unlike the co-accused who were granted bail, the Applicant remained a proclaimed offender for a substantial period, did not submit to the process of law despite coercive measures, and committed another serious offence during that period, leading to his conviction. These distinguishing features place him on a different footing from the co-accused who secured bail after substantially longer incarceration and without such aggravating conduct. The doctrine of parity, which presupposes broadly similar factual and legal circumstances, is therefore not attracted in his favour, and the plea of bail on this ground also fails.

12. The Applicant has further sought to advance his case on merits, arguing that the essential ingredients required for an offence under MCOCA, i.e., continuing unlawful activity and membership in an organized crime syndicate with the intent to gain pecuniary benefits, are not satisfied in this case. However, at this stage, the Court is not inclined to engage in a detailed examination of the merits of the case or conduct a mini-trial to determine whether the offence against the Applicant is made out. It must, however, be emphasized that the provisions

under MCOCA are invoked specifically pursuant to continuing unlawful activity as a member of an organised crime syndicate or on behalf of such syndicate. The State has highlighted the Applicant's association with Manoj Morkheri and his syndicate, and his alleged involvement in serious offences such as murder, kidnapping for ransom, and attempt to murder.

13. It is correct that, as per the proposal for invoking MCOCA, the Applicant appears to be directly named only in FIR No. 497/2011, P.S. Prashant Vihar, and that he now stands acquitted in that case. Whether, and to what extent, such acquittal undermines the foundational basis for invoking MCOCA against him is a matter that necessarily falls within the domain of the Trial Court and must be determined on a full appraisal of evidence. For present purposes, it is sufficient to note that he is presently facing trial in FIR No. 182/2017, P.S. Baas, Hisar, for offences under Sections 302, 120-B, 148, 149 and 216 IPC and Section 25 of the Arms Act, and he stands convicted in FIR No. 356/2018, P.S. Hansi Sadar, for offences under Sections 307, 353 and 186 IPC and Sections 25, 54 and 59 of the Arms Act. Even if all such matters are not shown, at this stage, to be acts committed strictly "on behalf of" the syndicate, they nonetheless reflect a pattern of involvement in serious violent crime. In this backdrop, this Court cannot, at the bail stage, return a positive finding that there are reasonable grounds for believing that the Applicant is not guilty of the offences alleged, as required under Section 21(4)(b) of MCOCA.

14. Having regard to the totality of the foregoing facts and circumstances, including the Applicant's association with the syndicate, his antecedents, and his demonstrated propensity to abscond and reoffend, this Court finds no grounds to justify the grant of bail. The application is, accordingly, dismissed.

15. It is explicitly clarified that, observations, if any, concerning the merits of the case are solely for the purpose of deciding the question of grant of bail and shall not be construed as an expression of opinion on the merits of the case.

16. Disposed of.