



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 23/2025

1. Mohsin Nasir Sheikh,
Aged 35 yrs., Occ. Labour,
2. Abhijit @ Pawan Moreshwar Katare,
Aged 35 yrs., Occ. Labour,
3. Sheikh Nasif Sheikh Rashid,
Aged 33 yrs., Occ. Labour,

All R/o. Jalnagar Ward,
Chandrapur.

...APPELLANTS

VERSUS

1. State of Maharashtra,
through Police Station officer,
Police Station – Ramnagar,
Dist. Chandrapur.

...RESPONDENT

Mr. Akshay Naik, Senior Advocate assisted by Mr Aniruddha Jaltare,
Advocate for appellants.

Mr. S. S. Doifode, Additional Public Prosecutor for respondent/State.

CORAM

**: ANIL L. PANSARE AND
M. M. NERLIKAR, JJ.**

CLOSED FOR JUDGMENT

: 13.08.2025

PRONOUNCEMENT OF JUDGMENT

: 25.08.2025

JUDGMENT : (PER: M. M. NERLIKAR , J.)

Heard.

2. **Rule.** Rule made returnable forthwith. By consent of parties, heard finally.

3. By way of present appeal, the appellants have challenged the orders dated 07.12.2024, 04.01.2025 and 18.01.2025, whereby the learned Special Judge, Chandrapur has extended the time for filing the charge-sheet. It is further prayed to quash and set aside the orders dated 09.12.2024, 08.01.2025 and 05.02.2025, by which the learned Special Judge, Chandrapur has rejected the application under Section 187(2)(i) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”) filed by the appellants for grant of statutory bail. It is further prayed that the appellants be enlarged on bail in offence registered with Police Station – Ramngar, Dist. Chandrapur vide Crime No. 798/2024 for commission of offence under Sections 103(1), 109(1), 189(2), 189(4), 190, 191(2), 191(3) and 61 of the Bhartiya Nyaya Sanhita (“BNS”)

Sections 3, 4 and 25 of the Indian Arms Act, 1959 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (“MCOCA”) and 135 of the Maharashtra Police Act.

4. Brief facts:-

On 12.08.2024, informant Shivaji Vasanta Gonewar lodged the report with Police Station, Ramnagar, District Chandrapur alleging that at around 03.00 p.m. when the informant was at his house, deceased Haji called him and asked him to come to his house. The deceased informed him that one Nur and Sameer Sheikh are intending to commit his murder, and therefore he wanted to inquire by going to Chandrapur as he has received the information about the same. When the informant and deceased along with others were enroute towards Chandrapur at about 03.50 p.m., two persons boarded the car of deceased Haji and thereafter, all the five persons went to Shahidarbar Hotel, Chandrapur. When the deceased and other person went inside the hotel to have a meal at about 04.15 p.m. one white colour Renault Company car came and stopped in front of the informant. Seven persons got

down from the said vehicle and they were armed with guns and knives. Immediately, the accused persons started firing bullets on the informant, who ran and took shelter behind the Pan Shop, however, two bullets hit him on his left leg. Thereafter, all the accused persons went inside the hotel and fired at Haji. After that, the accused persons ran away. Haji was brought to the Government Hospital, Chandrapur and during treatment, he succumbed to the injuries. On 13.08.2024, six accused persons out of seven surrendered and accordingly, they were arrested and granted Police Custody. During the investigation, it transpired that some other persons were also involved and accordingly, they were arrested on 18.08.2024, wherein the present appellants are also included as accused Nos. 9, 10 and 11. They were produced before the learned Magistrate on 18.08.2024 and the police custody remand was granted till 20.08.2024.

5. The following undisputed facts emerges from the record a proposal was sent for invoking the provisions of the

MCOCA and accordingly, the approval under Section 23(1)(a) of the said Act was granted by the Special Inspector General of Police, Nagpur Division, Nagpur. As the 90 days period for filing the charge-sheet was to expire on 16.11.2024, 1st application dated 07.11.2024 was filed by the learned Special Additional Public Prosecutor, Chandrapur (MCOCA) (“herein after referred to as Additional Public Prosecutor, Chandrapur”) under Section 21(2)(b) of the MCOCA for extension of 90 days for filing of charge-sheet against the accused persons which was allowed vide order dated 08.11.2024 granting extension for 15 days for filing the charge-sheet i.e. upto 23.11.2024. This was the first extension which was granted by the Special Court.

6. However on 19.11.2024, 1st application was filed by the appellants for grant of default bail under Section 187(2)(i) of the BNSS. On 22.11.2024, 2nd application was filed by the learned Additional Public Prosecutor, Chandrapur for grant of extension of time to file charge-sheet. Time was extended by 15 days by order dated 22.11.2024 i.e. till 07.12.2024. On

05.12.2024, 3rd application was filed by the learned Additional Public Prosecutor, Chandrapur for grant of extension of 60 days. By an order dated 07.12.2024, extension of 30 days was granted i.e. upto 06.01.2025. Again on 04.1.2025, 4th application was filed by learned Additional Public Prosecutor, Chandrapur for extension of 30 days. By order dated 06.01.2025, time was extended till 18.01.2025. Again on 18.01.2025, 5th application was filed by learned Additional Public Prosecutor, Chandrapur for extension of time of 18 days. By order dated 18.01.2025, time was extended till 04.02.2025.

7. It is to be noted that the appellants filed application for grant of default bail under Section 187(2)(i) of the BNSS on three occasions i.e. on 19.11.2024, secondly on 06.01.2025 and thirdly on 04.02.2025. However, those applications rejected by orders dated 09.12.2024, 08.1.2025 and lastly on 05.02.2025.

8. Appeal seems to be filed on 04.12.2024, however by an order dated 15.01.2025, leave to amend was granted. On

29.01.2025, notice was issued to the respondent/State. Matter was adjourned time to time and again on 17.04.2025, permission was sought to amend the appeal and accordingly, it was granted. However, by order dated 29.04.2025, appellants are permitted to replace the copy of the appeal with amended copy of appeal.

9. We have heard learned Senior Counsel Mr. Naik appearing for appellants and learned Additional Public Prosecutor Mr. Doifode appearing for the State.

10. Mr. Naik, learned Senior Counsel appearing for appellants contended that the applications filed for extension of time for filing charge-sheet dated 05.12.2024, 04.01.2025 and 18.01.2025 were filed by the learned Additional Public Prosecutor, Chandrapur without applying the mind i.e. mechanically as the contents of said applications are only translated version of the applications filed by the Additional Superintendent of Police, Chandrapur dated 05.12.2024, 04.01.2025 and 17.01.2025 which were filed in Marathi. He

submitted that the applications filed by the learned Additional Public Prosecutor, Chandrapur do not indicate the progress of investigation, which is against the mandate of Section 21 of the MCOCA. Further, there is no specific reason assigned for detention of the accused beyond the statutory period of 90 days and therefore, the learned Special Judge, Chandrapur committed grave error by granting extension of time to file charge-sheet to the prosecution by impugned orders and the same is contrary to the mandate provided under Section 21 of the MCOCA. So as to substantiate the aforementioned contentions, the learned senior counsel for appellants relied on the judgment of the Honb'ble Supreme Court which are ***Saqib Abdul Hamid Nachan Vs. State of Maharashtra, (2019) 16 SCC 707, Momin Moiuddin Gulam Hasan and anr. Vs. State of Maharashtra, 2024 SCC Online Bom 2205, Darshan Subhash Nandagawali Vs. State of Maharashtra, 2023(5) Mh.L.J. (Cri), 547, Hitendra Vishnu Thakur*** (referred below).

11. Per contra, the learned Additional Public Prosecutor Mr. Doifode, submitted that the applications for grant of

extension of time filed by the learned Additional Public Prosecutor, Chandrapur were filed after application of mind which can be gathered from the applications. He further submitted that the applications also depict the progress of investigation and therefore, those reasons which are mentioned in the applications are the reasons which can be said to be the specific reasons for detention of accused beyond the period of 90 days. He submitted that the learned Special Court granted extension of time after considering all the facts and circumstances and therefore, no fault can be found in the impugned orders. He further submitted that thereafter, charge-sheet was filed on 04.02.2025 and therefore, right to claim default bail is no more in existence as the right is extinguished as soon as the charge-sheet is filed. He further submitted that the sanction to invoke the provisions of MCOCA was refused by the Competent Authority on 03.02.2025 and therefore, considering the subsequent development, the present appeal may not be entertained for the reasons that now the provisions of MCOCA would not be applicable as the sanction was refused

under Section 23 (2) of the MCOCA. He further submits that earlier two extensions were not challenged by the appellants and further extensions granted cannot be challenged as charge-sheet was filed during validly extended period. So as to substantiate the contentions, he relied on the judgment of the Hon'ble Supreme Court in cases of ***Rambeer Shokeen Vs. State of NCT of Delhi, AIR 2018 SC 688*** and ***Qamar Ghani Usmani Vs. State of Gujarat, AIR 2023 SC 1901***.

12. Upon considering the above submissions, it could be gathered that the appellants have challenged the orders of extension dated 07.12.2024, 06.01.2025 and 17.01.2025. We have also perused the applications filed for grant of extension for filing charge-sheet dated 05.12.2024, 04.01.2025 and 18.01.2025. The learned senior counsel for appellants has contended that the applications filed by the learned Additional Public Prosecutor, Chandrapur would demonstrate that he has not applied his mind before filing the applications. The other two grounds raised by the appellants are that the report does not depict progress in investigation and specific reason in order

to detain the appellants, therefore the Court has committed gross error by extending the time for filing the charge-sheet on three occasions and the orders are against the mandate of Section 21 of the MCOCA. In order to appreciate the said submissions, it is necessary to reproduce Section 21 of the MCOCA as under:-

“21. Modified application of certain provisions of the Code-

(1).....

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modifications that, in sub-section

(a) the references to "fifteen days", and "sixty days", wherever they occur, shall be construed as references to "thirty days" and "ninety days", respectively;

(b) after the proviso, the following proviso shall be inserted, namely:--

"Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Special Court shall extend the said period upto one hundred and eighty days, on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days."

Proviso to Section 21(2)(b) carves out exception in respect of grant of extension of period beyond 90 days, the period can be extended upto 180 days subject to satisfying three conditions as

laid down in the said proviso. The powers to be exercised under Section 21 of the MCOCA are vested with the Special Court, there is no dispute to that effect. Further, if it is not possible to complete the investigation within 90 days then for extension of further time beyond 90 days, three conditions are to be satisfied which are mandatory i.e. (1) the report of the “Public Prosecutor” is necessary, (2) the said report should indicate the “progress of investigation” and (3) it should also invariably “specify the reasons for the detention” of the accused beyond the period of 90 days. To understand these three ingredients of the proviso, it is necessary to discuss each ingredient.

[i] **Report of the Public Prosecutor:-**

The important ingredient as stated in the proviso to Section 21(2)(b) of the MCOCA is the report of the Public Prosecutor. It is the statutory duty of the “Public Prosecutor” to independently apply his mind to the request of the Investigating Agency before submitting the report to the Court for extension of time, considering the drastic provision that the

accused can be remanded upto 180 days. Therefore, it requires application of mind by the Public Prosecutor. In catena of judgments, the Hon'ble Supreme Court has observed that the Public prosecutor is neither a post office of the Investigating Agency nor he is a forwarding Agency, but is vested with a statutory duty. Application of mind by the Public Prosecutor is a must while submitting the report because, it would result into further custody of the accused affecting right to life and personal liberty. Further, application is to be filed by the learned Public Prosecutor.

13. In case of *Hitendra Vishnu Thakur and others Vs. State of Maharashtra and others, (1994) 4 SCC 602*, the Hon'ble Supreme Court in para 23 while dealing with the identical issue observed as under:-

“23. We may at this stage, also on a plain reading of clause (bb) of sub-section (4) of Section 20, point out that the Legislature has provided for seeking extension of time for completion of investigation on a report of the public prosecutor. The Legislature did not purposely leave it to an investigating officer to make an application for seeking extension of time from the court. This provision is in tune

with the legislative intent to have the investigations completed expeditiously and not to allow an accused to be kept in continued detention during unnecessary prolonged investigation at the whims of the police. The Legislature expects that the investigation must be completed with utmost promptitude but where it becomes necessary to seek some more time for completion of the investigation, the investigating agency must submit itself to the scrutiny of the public prosecutor in the first instance and satisfy him about the progress of the investigation and furnish reasons for seeking further custody of an accused. A public prosecutor is an important officer of the State Government and is appointed by the State under the Code of Criminal Procedure. He is not a part of the investigating agency. He is an independent statutory authority. The public prosecutor is expected to independently apply his mind to the request of the investigating agency before Submitting a report to the court for extension of time with a view to enable the investigating agency to complete the investigation. He is not merely a post office or a forwarding agency. A public prosecutor may or may not agree with the reasons given by the investigating officer for seeking extension of time and may find that the investigation had not progressed in the proper manner or that there has been unnecessary, deliberate or avoidable delay in completing the investigation. In that event, he may not submit any report to the court under clause (bb) to seek extension of time. Thus, for seeking extension of time under clause (bb), the public prosecutor after an

independent application of his mind to the request of the investigating agency is required to make a report to the Designated Court indicating therein the progress of the investigation and disclosing justification for keeping the accused in further custody to enable the investigating agency to complete the investigation. The public prosecutor may attach the request of the investigating officer along with his request or application and report, but his report, as envisaged under clause (bb), must disclose on the face of it that he has applied his mind and was satisfied with the progress of the investigation and considered grant of further time to complete the investigation necessary. The use of the expression "on the report of the public prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period" as occurring in clause (bb) in sub-section (2) of Section 167 as amended by Section 20(4) are important and indicative of the legislative intent not to keep an accused in custody unreasonably and to grant extension only on the report of the public prosecutor. The report of the public prosecutor, therefore, is not merely a formality but a very vital report, because the consequence of its acceptance affects the liberty of an accused and it must, therefore, strictly comply with the requirements as contained in clause (bb). The request of an investigating officer for extension of time is no substitute for the report of the public prosecutor. Where either no report as is envisaged by clause (bb) is filed or the report filed by the public prosecutor is not accepted by

the Designated Court, since the grant of extension of time under clause (bb) is neither a formality nor automatic, the necessary corollary would be that an accused would be entitled to seek bail and the court 'shall' release him on bail if he furnishes bail as required by the Designated Court. It is not merely the question of form in which the request for extension under clause (bb) is made but one of substance. The contents of the report to be submitted by the public prosecutor, after proper application of his mind, are designed to assist the Designated Court to independently decide whether or not extension should be granted in a given case. Keeping in view the consequences of the grant of extension i.e. keeping an accused in further custody, the Designated Court must be satisfied for the Justification, from the report of the public prosecutor, to grant extension of time to complete the investigation. Where the Designated Court declines to grant such an extension, the right to be released on bail on account of the 'default' of the prosecution becomes indefeasible and cannot be defeated by reasons other than those contemplated by sub-section (4) of Section 20 as discussed in the earlier part of this judgment. We are unable to agree with Mr Madhava Reddy or the Additional Solicitor General Mr Tulsi that even if the public prosecutor 'presents' the request of the investigating officer to the court or 'forwards' the request of the investigating officer to the court, it should be construed to be the report of the public prosecutor. There is no scope for such a construction when we are dealing with the liberty of a citizen. The

courts are expected to zealously safeguard his liberty. Clause (bb) has to be read and interpreted on its plain language without addition or substitution of any expression in it. We have already dealt with the importance of the report of the public prosecutor and emphasised that he is neither a 'post office' of the investigating agency nor its 'forwarding agency' but is charged with a statutory duty. He must apply his mind to the facts and circumstances of the case and his report must disclose on the face of it that he had applied his mind to the twin conditions contained in clause (bb) of sub-section (4) of Section 20. Since the law requires him to submit the report as envisaged by the section, he must act in the manner as provided by the section and in no other manner. A Designated Court which overlooks and ignores the requirements of a valid report falls in the performance of one of its essential duties and renders its order under clause (bb) vulnerable. Whether the public prosecutor labels his report as a report or as an application for extension, would not be of much consequence so long as it demonstrates on the face of it that he has applied his mind and is satisfied with the progress of the investigation and the genuineness of the reasons for grant of extension to keep an accused in further custody as envisaged by clause (bb) (supra). Even the mere reproduction of the application or request of the investigating officer by the public prosecutor in his report, without demonstration of the application of his mind and recording his own satisfaction, would not render his report as the one

envisaged by clause (bb) and it would not be a proper report to seek extension of time. In the absence of an appropriate report the Designated Court would have no jurisdiction to deny to an accused his Indefeasible right to be released on bail on account of the default of the prosecution to file the challan within the prescribed time if an accused seeks and is prepared to furnish the bail bonds as directed by the court. Moreover, no extension can be granted to keep an accused in custody beyond the prescribed period except to enable the investigation to be completed and as already stated before any extension is granted under clause (bb), the accused must be put on notice and permitted to have his say so as to be able to object to the grant of extension.”

Therefore, accordingly, the Hon’ble Supreme Court has emphasised the important role to be played by the Public Prosecutor while seeking extension of time with a view to enable the Investigating Agency to complete the investigation. Further, the Hon’ble Supreme has also observed that the Public Prosecutor is not merely a post office or a forwarding agent. It is further observed that the Public Prosecutor may or may not agree with the reasons given by the Investigating Agency for seeking extension of time and may find that the investigation had not progressed in the proper manner or that there has been unnecessary, deliberate or avoidable delay in completing the investigation. Under such circumstances, the Investigating

Agency may not submit any report to the Court seeking extension of time. It is further observed that report of the Public Prosecutor is not merely a formality, but a very vital report because the consequence of its acceptance affects the liberty of an accused and it must, therefore, strictly comply with the requirements as contained in clause (bb). It is further observed that the use of expression “on the report of the public prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period” in clause (bb) in sub-section (2) of Section 167 as amended by Section 20(4) are important and indicative of the legislative intent not to keep an accused in custody unreasonably and to grant extension only on the report of the Public Prosecutor. Therefore, the Hon’ble Supreme Court has elaborately dealt with the issue of application of mind by the Public Prosecutor and his duties before making or while making an application for extension of time for filing charge-sheet.

[ii] **Progress of Investigation:-**

The other ingredient as mentioned is “progress of investigation” which has to be spelt out from the report of the Public Prosecutor. The term “Investigation” is defined under

Section 2(1) of the BNSS which includes all the proceedings under the Sanhita for collection of evidence conducted by the Police Officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf. Therefore, the term “progress of the investigation” means and includes collection of evidence in the form of recording of the statements, arrest of the accused, steps taken towards collection of relevant documents, collection of all relevant information and analysis of the collected materials. It also includes search, seizure etc. and therefore, it could be understood that every step of the Investigating Officer should be towards development of investigation or to say more advanced stage in investigation. Thus, the report of Additional Public Prosecutor, Chandrapur should disclose the progress in the investigation and not the reasons why investigation was not completed.

[iii] **Specific Reasons for Detention:-**

Third ingredient is that the report shall disclose “specific reasons for detention”. In common parlance, this

means that there should be reasons indicating grounds on which further detention i.e. beyond 90 days is sought. There may be 'en' number of reasons depending upon the facts and circumstances of the case.

14. The idea behind such a strict compliance is to safeguard the illegal or unnecessary detention of the accused. Article 21 of the Constitution of India provides for protection of life and personal liberty. These liberties can be curtailed only by procedure established by the law and therefore, there should be strict compliance of the proviso to Section 21(2)(b) of the MCOCA. Thus, in a given case, extension of time to complete investigation must be justified, but continuation of detention may not. It is for this reason amongst other that Additional Public Prosecutor, Chandrapur should justify continuation of detention by assigning specific reasons.

15. Considering the above discussion, now let us turn to the challenge in the appeal. It seems from the record that after completion of 90 days, the first application was filed for extension of time on 07.11.2024 and second application was

filed on 22.11.2024 by the Additional Public Prosecutor, Chandrapur. By orders dated 08.11.2024 and 22.11.2024 extension was granted till 23.11.2024 and 07.12.2024 respectively. It is needless to mention that those orders granting extension of time for filing charge-sheet are not under challenge. However, the challenge is in respect of 3rd, 4th and 5th extension which was granted. The 3rd application for extension of time for filing charge-sheet was filed by the learned Additional Public Prosecutor on 05.12.2024, 4th application was filed on 04.01.2024 and 5th was filed on 18.01.2025. Accordingly, by orders dated 07.12.2024, 06.01.2025 and 18.01.2025 respectively extension was granted by the Special Court. After going through the application dated 05.12.2024 filed by learned Additional Public Prosecutor, Chandrapur and the application addressing the Additional Public Prosecutor, Chandrapur by the Additional Superintendent of Police, Chandrapur dated 05.12.2024, it transpires that the application filed by the learned Additional Public Prosecutor, Chandrapur is translation of Marathi version

of the report filed by the Additional Superintendent of Police, Chandrapur. Further, it is necessary to note that by order dated 07.12.2024, the learned Special Judge has extended time for 30 days which depicts that the learned Special Judge lost sight of the fact that the conditions laid down under Section 21(2) (b) of the MCOCA has not been complied. The order is not only cryptic, but also shows non-application of mind. The learned Special Judge has failed to consider whether the application filed by the learned Additional Public Prosecutor discloses the progress of the investigation and whether there are specific reasons for detention of the accused persons and whether the learned Public Prosecutor has applied his mind independently before filing the application.

16. So far as the 4th application dated 04.01.2025 is concerned for extension of time for filing charge-sheet claiming 30 days extension, is nothing but reproduction of the application dated 05.12.2024. We are of the opinion that the application neither depicts the progress of investigation nor does it show that there are specific reasons for further detentin

of the accused person. As a matter of routine, the learned Additional Sessions Judge/Special Judge, Chandrapur again on 06.01.2025 has granted request of the learned Additional Public Prosecutor and time was extended till 18.01.2025. Further, the 5th application dated 18.01.2025 is again a replica of third and fourth applications, wherein neither the progress of investigation nor the reasons for detention are mentioned in the application and again in a routine manner, the order was passed by the learned Additional Judge/Special Judge, Chanrapur on 18.01.2025, thereby granting extension of time till 04.02.2025 for filing charge-sheet and to complete the remaining investigation. It is necessary to mention at this juncture that only dates are changed in the applications and nothing more than that.

For ready reference, the applications filed by the Additional Superintendent of Police, Additional Public Prosecutor, Chandrapur are reproduced herein below:-



विनंती अर्ज

क.वाचक/तपास मुदत
वाढ/24 - 1 3 8 6
कार्यालय, अपर पोलीस अधीक्षक,
चंद्रपूर. दि. 05/12/2024

प्रति,

मा. विशेष शासकीय अभियोक्ता,
विशेष न्यायालय (MCOC)
चंद्रपूर

निवेदक - रिना यादवरावजी जनबंधू, अपर पोलीस अधीक्षक, चंद्रपूर.

महोदय,

- उपरोक्त विषयान्वये सविनय सादर आहे की, यातील नमुद घटना ता.वेळी व ठिकाणी यातील मयत हा घरी हजर असतांना त्याला माहीती मिळाली की, त्याचा मर्डर होणार आहे. अशा माहीतीची शाहानिशा करण्याकरीता मयत व फिर्यादी तसेच त्याचे ईतर मित्र असे मिळून चंद्रपूर येथील शाही दरबार हॉटेलमध्ये आले असता यातील आरोपीतांनी हत्यारानिशी दंगल माजवत संगणमत करून मयत याला पुर्व वैमनश्यातुन जिवे ठार माण्याच्या उद्देशाने घटनास्थळी येवुन फिर्यादीवर बंदुकीने फायरींग करून गंभीर जखमी केले तसेच मयत हाजी सरवर शेख वय अंदाजे 45 वर्ष रा. नकोडा, घुंगुस याच्यावर बंदुकीने फायरींग करून आणि चाकु/ धारदार शस्त्राने वार करून जिवाने ठार मारले. अशा फिर्यादीचे बयाणावरून पो.स्टे.रामनगर येथे अपराध क. 798/2024 कलम 103(1),109(1),189(2)(4), 191(2)(3), 190 भारतीय न्याय संहिता सहकलम 3/25, 4/25, भा.ह.का. कलम 135 म.पो.का. अन्वये सदरचा गुन्हा नोंद करून तपासात घेतला.
- पोलीस स्टेशन रामनगर येथे दि.12/08/24 ला सदर गुन्हा नोंद झाल्यानंतर तपासी अधिकारी श्री. सुधाकर यादव, उप विभागीय पोलीस अधिकारी चंद्रपूर विभाग, यांनी दि.04/11/2024 पर्यंत नमुद गुन्ह्याचा तपास केला आहे.
 - नमुद गुन्ह्यातील आरोपी यांच्यावर मागील 10 वर्षांमध्ये दाखल गुन्ह्यांची माहिती प्राप्त करून आरोपी विरुद्ध महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, अन्वये कारवाई करणे योग्य वाटत असल्याने प्रस्ताव तयार करून महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, चे कलम 23(1) (अ), अन्वये मंजुरी करीता मा.विशेष पोलीस महानिरीक्षक, नागपूर विभाग, नागपूर यांच्या कडे सादर करण्यात आला.
 - त्यानुसार मा.विशेष पोलीस महानिरीक्षक, नागपूर विभाग, नागपूर यांनी महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, चे कलम 23(1) (अ) अन्वये कलम वाढ करण्याची परवानगी दिलेली आहे.
- त्यानंतर आमची मा.पोलीस अधीक्षक, चंद्रपूर यांचे पत्र क्रमांक - वाचक/तपास वर्ग/मोयका/पो.स्टे. रामनगर/798/2024 - 3055 चंद्रपूर दि. 31/10/2024 अन्वये सदर गुन्ह्यात कलम 3(1) (i),(ii), 3(2), 3(4) महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, अन्वये कलम वाढ करून तपास करण्याकरीता कलम 23(1) (ब) महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, अन्वये तपासी अधिकारी म्हणुन नियुक्ती केली आहे.
- यातील आरोपी हे सामान्य नागरिकांमध्ये दहशत निर्माण करण्याकरीता, गुन्हेगारी वर्चस्व निर्माण करण्याकरीता तसेच आर्थिक फायदा मिळविण्याकरीता, हिंसाचाराचा वापर करून बेकायदेशीर कृत्य करण्याच्या सवईचे आहेत.
- सदर गुन्ह्याची व्याप्ती मोठी असल्याने तपास 90 दिवसात पुर्ण करून दोषारोपपत्र मा.न्यायालयात सादर करणे शक्य नसल्याने सदर गुन्ह्यामध्ये महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, चे कलम 21(2)(ब) अन्वये दोषारोपपत्र मा.न्यायालयात सादर करण्याकरीता मुदतवाढ मिळण्याकरीता मा.विशेष शासकीय अभियोक्ता, MCOC कोर्ट, चंद्रपूर यांच्या मार्फत विनंती अर्ज सादर केलेला होता.

6. त्यावरून दि.08/11/2024 रोजी सदर गुन्ह्यामध्ये दोषारोपपत्र सादर करण्यासाठी 15 दिवस दिनांक 23/11/2024 पर्यंत मुदतवाढ मिळालेली होती. सदर कालावधीमध्ये तपास पुर्ण होवु शकला नसल्याने दि. 23/11/2024 ते दि.07/12/2024 पर्यंत 15 दिवस मुदतवाढ मिळालेली होती.

मुदतवाढ मिळालेल्या कालावधी करण्यात आलेला तपास

- आरोपी क्र. 1, 3, 4, 8, 13, 14 यांचा दि. 26/11/2024 ते 02/12/2024 पर्यंत 7 दिवस पि.सि.आर. घेण्यात आलेला आहे. त्यांना गुन्ह्याच्या अनुशंगाने विचारपुस करण्यात आलेली आहे.
- आरोपी व त्यांच्या नातेवाईकांच्या नावावर असलेल्या शेती, प्लॉट, घर, वाहन याबाबत माहिती विचारण्यात आलेली आहे. त्याबाबत संबंधीत विभागाला पत्रव्यवहार करण्यात आले आहे.
- सदर गुन्ह्यातील फसर असलेला आरोपी याच्या बाबत विचारपणा करण्यात आलेली आहे. पण आरोपी यानी उडवाउडवीचे उत्तर दिलेले आहेत.
- सदर गुन्ह्यात आणखी कोण सहभागी आहे काय? तसेच मदत कोण करत आहे? याबाबत कसुन विचारपुस करण्यात आली आहे.
- आरोपी समीर शेख हा गुन्ह्यात वापरलेले शस्त्र कोणाकडून आणले याबाबत विचारपुस केली असता त्याने सांगितलेल्या व्यक्तीबाबत शाहनिशा केली असता त्याचा खुन झालेला असल्याचे माहिती मिळाली आहे.
- आरोपी सय्यद अबरार याने आरोपी समीर शेख याच्या सोबत हाजीबाबा शेख याला मारण्याच्या प्लॅनिंगमध्ये ज्या वाहनाचा वापर केला होता. त्याबाबत आरोपी सय्यद अबरार यास विचारपुस करून त्याने ज्या ठिकाणी त्याचे वाहन ठेवले होते त्या ठिकाणी जावून महिंद्रा कंपनीची थार कधीया रंगाची जिचा क्र. एम. एच. 34 बी.व्ही. 9604 किं. अं. 12,00,000/- रु. असलेली दोन पंच व साक्षदार यांच्या समक्ष जप्त करण्यात आलेली आहे.
- आरोपी सय्यद अबरार याने ज्यांच्या कडे त्याचे वाहन ठेवले होते त्यांचे सविस्तर बयान नोंद करण्यात आले आहे.
- आरोपी नामे प्रशांत उर्फ पस्सी राजेंद्र मालवेनी याला गुन्ह्याच्या अनुशंगाने विचारपुस केली असता त्याने स्वखुशीने त्याचे कबुली जबाब देत असल्याचे संमती पत्र दिले असल्याने कलम 18 अंतर्गत 'पोलीस अधीक्षक' दर्जाच्या अधिका--याची नेमणुक करण्याबाबत मा.विशेष पोलीस महानिरीक्षक, नागपूर परिक्षेत्र नागपूर यांना पत्र पाठविण्यात आले होते.
- कलम 18 चे बयान नोंदविण्याकरीता मा.पोलीस अधीक्षक, भंडारा यांची नियुक्त केल्याबाबत मा.विशेष पोलीस महानिरीक्षक यांचे दि.29/11/2024 रोजी पत्र प्राप्त झाले असल्याने दि.30/11/2024 रोजी आरोपी प्रशांत उर्फ पस्सी राजेंद्र मालवेनी यास पोलीस अधीक्षक, भंडारा यांच्या समक्ष कलम 18 चे बयान नोंदविण्याकरीता हजर करण्यात आले होते.
- आरोपी प्रशांत उर्फ पस्सी राजेंद्र मालवेनी याने मा. पोलीस अधीक्षक, भंडारा यांच्या समक्ष कबुली जबाब देणार नसल्याचे सांगितल्याचे पोलीस अधीक्षक यांचे पत्र प्राप्त झाले आहे. त्यावरून आरोपी अक्षय रत्ने यास चंद्रपूर येथे आणून हवालात बंद करण्यात आले आहे.
- आरोपी यांचे नातेवाईक यांच्या नावावर असलेल्या मालमत्तेबाबत माहिती मिळण्याकरीता दुय्यम निबंधक यांना पत्र देण्यात आले आहेत.

- नमुद गुन्हयामध्ये दि.23/11/2024 पर्यंत तपास पुर्ण होणे शक्य नसल्याने खालील कारणास्तव 60 दिवस मुदतवाढ मिळण्यात यावी.
- आरोपी क्र. 1, 3, 4, 8, 13, 14 यांचा दि. 26/11/2024 ते 02/12/2024 पर्यंत 7 दिवस पि.सि.आर. घेण्यात आलेला आहे. आरोपी यांनी जी माहिती दिली आहे त्या अनुशंगाने तपास करणे आहे.
- सदर गुन्ह्यातील आरोपी क्र. 2, 5, 6, 9, 10, 11, 12 यांच्या पि.सि.आर.ची मागणी करणे आहे. व त्यांचा पि.सि.आर.प्राप्त करून गुन्ह्याच्या अनुशंगाने आरोपी यांना विचारपुस करणे आहे.
- सदर गुन्ह्याच्या तपासात आरोपी यांच्या नावावर असलेल्या बँक खात्याची माहिती मिळण्याकरीता चंद्रपूर येथील बँकांना पत्रव्यवहार करण्यात आलेला आहे. त्यांच्या कडून माहिती प्राप्त होणे बाकी आहे.
- 2 आरोपींच्या नावावर असलेल्या मालमत्तेबाबत माहिती प्राप्त झाली असून त्या अनुशंगाने आरोपी यांना विचारपुस करणे आहे. व पुरावे गोळा करून महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, अन्वये कारवाई करणे आहे.
- नमुद गुन्ह्यातील आरोपी यांनी संघटित गुन्हेगारी करून स्वतंत्रपणे किंवा संघटितपणे आजपर्यंत अनेक गुन्हे केलेले आहेत. त्यातून बेकायदेशीर आर्थिक फायद्यातून मिळविलेली मालमत्ता त्याने कोठे ठेवलेली आहे? कोणाच्या नावावर आहे? कोणत्या ठिकाणी आहे? याबाबत तपास करून मालमत्तेविषयी कलम 20, महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, प्रमाणे कारवाई करणे आहेत.
- टोळी प्रमुख व टोळीच्या सदस्यांनी अनेक गुन्हेगारी कृत्ये करून स्वतःसाठी व टोळीच्या सदस्या साठी इतर काय फायदे मिळविले आहेत याबाबत तपास करून पुरावे गोळा करणे आहेत.
- यातील आरोपींवर विविध पोलीस स्टेशन मध्ये अनेक गुन्हे दाखल असून सदरचे गुन्हे दाखल करणारे अंमलदार/तपासी अधिकारी यांचे जबाब नोंदविणे आहेत.
- आरोपींच्या नावावर असलेल्या असणा-या जंगम अथवा स्थावर मालमत्तेची माहिती मागविण्यासाठी विविध बँका व संस्थांशी पत्रव्यवहार करून करण्यात आलेले आहेत. त्याबाबत माहिती प्राप्त होणे बाकी आहे. त्याबाबत माहिती प्राप्त झाली नंतर त्यानुसार तपास करून पुरावे गोळा करणे आहेत.
- काही आरोपी यांच्या नावावर नोंदणी झालेल्या वाहनांची माहिती प्राप्त झाली आहे. ती वाहने कुठे आहेत. याबाबत तपास करणे आहे.
- गुन्ह्यातील फरार आरोपी नामे किशोर कुंडलीक चानोरे स. किष्णानगर नंदनवन नागपूर हा घटना तारखेपासून फरार असून त्याचा शोध घेवून त्याला आश्रय देणा-याची माहिती मिळवून तपास करून पुरावे गोळा करणे आहे.
- नमुद गुन्ह्यातील टोळी प्रमुख व टोळीचे सदस्य यांच्या गुन्हे करण्याच्या कार्यपद्धती निश्चित करणे आहे.
- नमुद गुन्ह्यातील टोळी प्रमुख व त्याचे सदस्य यांना गुन्हा करण्याकरीता मदत करणा-या इसमांबाबत माहिती प्राप्त करून त्या दृष्टीने तपास करणे आहे.
- सदर गुन्ह्यात या व्यतीरीक्त इतर इतर टोळीतील आरोपी सहभागी आहेत काय? त्याबाबत आरोपींना विचारपुस करणे आहे.

सदर गुन्हयात महाराष्ट्र संघटित गुन्हेगारी नियत्रण कायदा 1999, चे कलम 23(2) अन्वये दोषारोपपत्र सादर करण्याची परवानगी प्राप्त करणे आहे.

7. सदरचा गुन्हयाचा तपास दिनांक 07/12/2024 रोजी पर्यंत तपास पुर्ण करून दोषारोपपत्र मा.न्यायालयात सादर करणे शक्य नाही. तपासाची व्याप्ती मोठी असल्याने सदर गुन्हयातील महाराष्ट्र संघटित गुन्हेगारी नियत्रण कायदा 1999, चे कलम 21(2) (ब) नुसार 60 दिवस मुदत वाढ मिळण्याकरीता विनंती अर्ज सेवेशी सविनय सादर आहे.

तपासी अधिकारी

अपर पोलीस अधीक्षक, चंद्रपूर

चंद्रपूर,

दि.05/12/2024

O.W.No./DGP/PP/1754/2024
Office of District Government
Pleader and Public Prosecutor,
Chandrapur.
Date :5/12/2024

To,
The Hon'ble Special Judge (MCOCA),
District and Sessions Court,
Chandrapur.

Subject :- Application under Section 21(2)(b) of MCOCA for extension of 60 days for filing Charge-sheet against the accused.

Reference : Letter dated 05/12/2024 through Additional S.P. Chandrapur.

Respected / Hon'ble Madam,

On 05/12/2024, Additional S.P. Chandrapur issued letter to me for getting extension of 60 days for further investigation, in Crime No. 798/2024, P.S. Ramnagar, Sections 103(1), 109(1), 189(2)(4), 191(2)(3), 190, 61 of B.N.S. Act, Section 3/25, 4/25 of Indian Arms Act and Section 3(1)(i)(ii), 3(2), 3(4) of MCOCA.

On 12/08/2024, accused Samir Sarvar Sheikh and others killed the deceased Haji Baba Sarvar Sheikh on the point of previous enmity. In further investigation, the Investigating Officer S.D.P.O. Sudhakar Yadav came to know that, there is syndicate of crime for committing said offence. In his investigation, he arrested 13 accused and still one accused Kishor Chanore is absconded. During his investigation, he arrested 13 accused from Nagpur, Chandrapur and Yavatmal Districts. Their criminal records spread over all other districts. The concerned I.O. collected F.I.Rs., Charge-sheets and information's of other co-accused by attending physically and it took so much time. After this, the Investigating Officer came in conclusion that, leveling of

Call copy of all accused

*05/12/2024
at 3:45 p.m.*

*Recd copy
C.F. Act 1, 2, 3, 6, 9, 10, 11, 13
5/12/2024
5:10 p.m.*

*Recd copy
C.F. Act: 8, 5, 12
5/12/24*

*Copy received
C.F. for accused 14
5/12/2024*

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MCOCA Sections are necessary against the all accused as they had committed this offence syndicately. Therefore, on 05/10/2024, the I.O. sent proposal letter to Inspector General of Police, Nagpur Range, Nagpur, through S.P., Chandrapur, for leveling of MCOCA Sections against all accused.

On 25/10/2024, the Inspector General of Police granted permission for leveling of MCOCA Sections, the said letter received on 26/10/2024 to S.P., Chandrapur. After receipt of this letter, the S.P., Chandrapur sent this order to S.D.P.O. Sudhakar Yadav and Additional S.P., Rina Janbandhu on 31/10/2024. On 04/11/2024, S.D.P.O., handed over case diary to Additional S.P., Chandrapur as per direction of S.P. vide letter dated 31/10/2024, for further investigation under MCOCA.

On 04/11/2024, Additional S.P. received case diary and gave letter to J.M.F.C. Chandrapur on 04/11/2024 for increasing of MCOCA Sections and also gave letter to J.M.F.C. for sending MCR and case documents to MCOCA Court.

As the MCOCA Sections are increased, the further investigation is necessary regarding getting property details of all accused and their relatives. Whether the concerned accused got economical benefits while committing such syndicate crime? Investigation required from absconded accused and other probable co-accused and supporters, there are fairer chances of demanding PCR of other co-accused. Moreover, prior to filing of charge-sheet, permission is required from Additional Director General of Police, Mumbai, under Section 23(2) of MCOCA.

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The Hon'ble Court has pleased to pass an order on 08/11/2024 and granted time to file the charge-sheet till 23/11/2024. But in the said crime till 23/11/2024, completion of investigation is not possible due to following reasons, those reasons are-

01) PCR of accused no.1, 3, 4, 8, 13 & 14 has been taken from 26/11/2024 to 02/12/2024 for 7 days. The investigation is to be done according to the information given by the accused.

02) To demand PCR in the said crime of accused no.2,5,6,9,10,11,12 and after obtaining their PCR, the accused is to be interrogated as per crime.

03) Correspondence has been made to banks in Chandrapur to get information about the bank account in the name of the accused in the investigation of the said crime. Information is yet to be received from them.

04) Information is received regarding the property in the name of 2 accused and accordingly the accused is to be interrogated. Evidence is to be collected as per MCOCA Act and action is to be taken under the said Act.

05) The accused in the said offense have committed several crimes till date either independently or in an organized manner by committing organized crime. Where have they kept the property obtained from illegal financial gain? In whose name is it? Where is it after investigating this, action is to be taken against the property as per section 20 of MCOCA Act.

06) It is to investigate and gather evidence on what gang leaders and gang members have obtained for themselves and other gang members by engaging in various criminal activities.

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07) Many crimes have been registered against the accused in various police stations and the response of the enforcement officers/investigating officers who registered the said crimes is to be recorded.

08) Correspondence has been made with various banks and organizations to seek information about movable or immovable property in the name of the accused. The information is yet to be received.

09) Information about the vehicles registered in the name of some accused has been received, the whereabouts of those vehicles is to be investigated.

10) The absconding accused Kishor Kundalik Chanore, r/o Krishnagara Nandanwan, Nagpur, in the crime is absconding from the date of the incident and the purpose is to search for him and get the information of the person who gave him shelter and investigate and collect evidence.

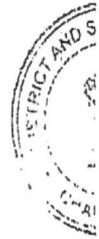
11) It is to determine the procedure of committing the crimes of gang leaders and gang members in the said crime.

12) It is to get information about the names of the leaders of the said crime gang and their members who helped them to commit the crime and investigate in that regard.

13) Apart from this, are the accused from other gangs involved in the said crime? The accused have to be questioned about it.

14) Permission is to be obtained to file a charge-sheet under Section 23(2) of MCOCA Act, in the said offence.

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15) It is not possible to complete the investigation of the said crime till 7/15/2024 and submit the charge sheet in the Hon'ble Court. As the scope of investigation is large, application for extension of time for 60 days under section 21(2)(b) of MCOCA of the said offence

Looking to the all above reasons, I came in conclusion that, extension of 60 days for filing charge-sheet against the arrested accused is necessary. Therefore, I humbly prayed that, the time of filing charge-sheet for 60 days, may kindly be granted, in the interest of justice.

Hence, this application.

Yours faithfully,

Additional Public Prosecutor,
Chandrapur.

0
07.12.2024.

Read the application with say of Adv. of accused. Heard both sides.
Read sec. 21 (b) of the MCOCA Act, 1999.
The Special court can extend the period of investigation upto 180 days on the report of public prosecutor.
Considering the lengthy investigation, the time to file charge sheet is extended for a period of 30 days from today.

order

T-C
Subh

Signature
DJZ

True Copy

(R.V. Kingi)
Registrar
District Court, Chandrapur

1. Prepared by: Chauran
2. Compared by: R

III Application



O.W.No./DGP/PP/ 32 /2024
Office of District Government
Pleader and Public Prosecutor,
Chandrapur.
Date: 4/1/2025

To,
The Hon'ble Special Judge (MCOCA),
District and Sessions Court,
Chandrapur.

Subject :- Application under Section 21(2)(b) of MCOCA for extension
of 30 days for filing Charge-sheet against the accused.

Reference : Letter No. 10/2025, dated 04/01/2025 through Additional
S.P. Chandrapur.



*Placed before
me at 5:30 p.m
04/01/2025*

Respected / Hon'ble Madam,

On 04/01/2025, Additional S.P. Chandrapur issued letter to me
for getting extension of 30 days for further investigation, in Crime No.
798/2024, P.S. Ramnagar, Sections 103(1), 109(1), 189(2)(4), 191(2)(3), 190,
61 of B.N.S. Act, Section 3/25, 4/25 of Indian Arms Act and Section
3(1)(i)(ii), 3(2), 3(4) of MCOCA.

*Call say all
the accused
persons
04/01/2025*

On 12/08/2024, accused Samir Sarvar Sheikh and others killed
the deceased Haji Baba Sarvar Sheikh on the point of previous enmity. In
further investigation, the Investigating Officer S.D.P.O. Sudhakar Yadav
came to know that, there is syndicate of crime for committing said offence. In
his investigation, he arrested 13 accused and still one accused Kishor Chanore
is absconded. During his investigation, he arrested 13 accused from Nagpur,
Chandrapur and Yavatmal Districts. Their criminal records spread over all
other districts. The concerned I.O. collected F.I.Rs., Charge-sheets and
information's of other co-accused by attending physically and it took so much
time. After this, the Investigating Officer came in conclusion that, leveling of

*Recd. copy
04/01/2025
Acc No S.B.12
611125*

*Received copy
Recd. no. 2, 3, 4, 6, 9, 10, 11, 13
04/01/2025*

*Received copy for
extension of
Rabat*

10 APPM

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MCOCA Sections are necessary against the all accused as they had committed this offence syndicatelly. Therefore, on 05/10/2024, the I.O. sent proposal letter to Inspector General of Police, Nagpur Range, Nagpur, through S.P., Chandrapur, for leveling of MCOCA Sections against all accused.

On 25/10/2024, the Inspector General of Police granted permission for leveling of MCOCA Sections, the said letter received on 26/10/2024 to S.P., Chandrapur. After receipt of this letter, the S.P., Chandrapur sent this order to S.D.P.O. Sudhakar Yadav and Additional S.P., Rina Janbandhu on 31/10/2024. On 04/11/2024, S.D.P.O., handed over case diary to Additional S.P., Chandrapur as per direction of S.P. vide letter dated 31/10/2024, for further investigation under MCOCA.

On 04/11/2024, Additional S.P. received case diary and gave letter to J.M.F.C. Chandrapur on 04/11/2024 for increasing of MCOCA Sections and also gave letter to J.M.F.C. for sending MCR and case documents to MCOCA Court.

As the MCOCA Sections are increased, the further investigation is necessary regarding getting property details of all accused and their relatives. Whether the concerned accused got economical benefits while committing such syndicate crime? Investigation required from absconded accused and other probable co-accused and supporters, there are fairer chances of demanding PCR of other co-accused. Moreover, prior to filing of charge-sheet, permission is required from Additional Director General of Police, Mumbai, under Section 23(2) of MCOCA.



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The Hon'ble Court has pleased to pass an order on 07/12/2024 and granted time to file the charge-sheet till 06/01/2025. But in the said crime till 06/01/2025, completion of investigation not possible due to following reasons, those reasons are-

01) As per information given by accused during their PCR investigation is to be done as per crime.

02) The accused in the said offense have committed several crimes till date either independently or in an organized manner by committing organized crime. Where have they kept the property obtained from illegal financial gain? In whose name is it? Where is it after investigating this, action is to be taken against the property as per section 20 of MCOCA Act.

03) It is to investigate and gather evidence on what gang leaders and gang members have obtained for themselves and other gang members by engaging in various criminal activities.

04) Correspondence has been made with various banks and organizations to seek information about movable or immovable property in the names of accused. The information is yet to be received.

05) Correspondence has been made with Income Tax Department regarding accused and informant yet to be received.

06) Information about the vehicles registered in the name of some accused has been received, the whereabouts of those vehicles is to be investigated.

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07) The absconding accused Kishor Kundalik Chanore, r/o Krishnagara-Nandanwan, Nagpur, in the crime is absconding from the date of the incident and the purpose is to search for him and get the information of the person who gave him shelter and investigate and collect evidence.

08) Necessary permission is to be obtained to file a charge-sheet under Section 23(2) of MCOCA Act, in the said offence from the Additional Director General of Police, Maharashtra State, Mumbai.

09) It is not possible to complete the investigation of the said crime till 06/01/2025 and submit the charge sheet before the Hon'ble Court. As the scope of investigation is at large, hence, application for extension of time for 30 days under section 21(2)(b) of MCOCA of the said offence

Looking to the all above reasons, I came in conclusion that, extension of 30 days for filing charge-sheet against the arrested accused is necessary. Therefore, I humbly prayed that, the time of filing charge-sheet for 30 days, may kindly be granted, in the interest of justice.

Hence, this application.

Yours faithfully,

Additional Public Prosecutor,
Chandrapur.



Reviewed this
on 4/11/25 on 5.25 P.M.

IN APPLICATION

1. Prepared by _____
2. Compared by _____

True Copy

JL Registrar
District Court, Chandrapur
14.11.25



प्रति,

मा. विशेष शासकीय अभियोक्ता,
विशेष न्यायालय (MCOC)
चंद्रपूर

निवेदक - रिना यादवरावजी जनबंधु, अपर पोलीस अधीक्षक, चंद्रपूर.

विषय - पो.स्टे.रामनगर अप.क. अप क्रमांक 798/2024 कलम 103 (1), 109 (1), 189 (2) (4), 191(2) (3), 190, 61 भा. न्या. सं. सहकलम 3/25, 4/25, भा.ह.का. कलम 135 म.पो.का. सह कलम 3(1) (i),(ii), 3(2), 3(4) महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, मध्ये कलम 21(2)(ब) महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999 अन्वये दोषारोपपत्र मा.न्यायालयात सादर करण्याची मुदत 18 दिवस वाढवून मिळण्याबाबत.

'विनंती अर्ज'

Exh 23

क.वाचक/तपास मुदत
वाढ/25 -
कार्यालय, अपर पोलीस अधीक्षक,
चंद्रपूर, दि. 17/01/2025

महोदय,

- उपरोक्त विषयान्वये सविनय सादर आहे की, यातील नमुद घटना ता.वेळी व ठिकाणी यातील मयत हा घरी हजर असतांना त्याला माहिती मिळाली की, त्याचा मर्डर होणार आहे. अशा माहितीची शाहानिशा करण्याकरीता मयत व फिर्यादी तसेच त्यांभ इतर मित्र असे गिळुन चंद्रपूर येथील शाही दरबार हॉटेलमध्ये आले असता यातील आरोपीतांनी हत्यारानिशी दंगल माजवत संगणमत करून मयत याला पुर्व वैमनश्यातुन जिवे टार माण्याच्या उद्देशाने घटनास्थळी येवुन फिर्यादीवर बंदुकीने फायरींग करून गंभीर जखमी केले तसेच मयत हाजी सरवर शेख वय अंदाजे 45 वर्ष रा. नकोडा, घुंगुस याच्यावर बंदुकीने फायरींग करून आणि चाकु/ धारदार शस्त्राने वार करून जिवाने टार मारले. अशा फिर्यादीचे बयाणावरून पो.स्टे.रामनगर येथे अपराध क्र. 798/2024 कलम 103(1),109(1),189(2)(4), 191(2)(3), 190 भारतीय न्याय संहिता सहकलम 3/25, 4/25, भा.ह.का. कलम 135 म.पो.का. अन्वये सदरचा गुन्हा नोंद करून तपासात घेतला.
- पोलीस स्टेशन रामनगर येथे दि.12/08/24 ला सदर गुन्हा नोंद झाल्यानंतर तपासी अधिकारी श्री. सुधाकर यादव, उप विभागीय पोलीस अधिकारी चंद्रपूर विभाग, यांनी दि.04/11/2024 पर्यंत नमुद गुन्हाचा तपास केला आहे.
 - नमुद गुन्हातील आरोपी यांच्यावर मागील 10 वर्षांमध्ये दाखल गुन्हांची माहिती प्राप्त करून आरोपी विरुद्ध महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, अन्वये कारवाई करणे योग्य वाटत असल्याने प्रस्ताव तयार करून महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, चे कलम 23(1) (अ), अन्वये सुजुरी करीता मा.विशेष पोलीस महानिरीक्षक, नागपूर विभाग, नागपूर यांच्या कडे सादर करण्यात आला.
 - त्यानुसार मा.विशेष पोलीस महानिरीक्षक, नागपूर विभाग, नागपूर यांनी महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, चे कलम 23(1) (अ) अन्वये कलम वाढ करण्याची परवानगी दिलेली आहे.
- त्यानंतर आमची मा.पोलीस अधीक्षक, चंद्रपूर यांचे पत्र क्रमांक - वाचक/तपास वर्ग/मोक्का/पो.स्टे. रामनगर/798/2024 - 3055 चंद्रपूर दि. 31/10/2024 अन्वये सदर गुन्हात कलम 3(1) (i),(ii), 3(2), 3(4) महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, अन्वये कलम वाढ करून तपास करण्याकरीता कलम 23(1) (ब) महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, अन्वये तपासी अधिकारी म्हणुन नियुक्ती केली आहे.
- यातील आरोपी हे सामान्य नागरिकांमध्ये दहशत निर्माण करण्याकरीता, गुन्हेगारी वर्चस्व निर्माण करण्याकरीता तसेच आर्थिक फायदा मिळविण्याकरीता, हिंसाचाराचा वापर करून बेकायदेशीर कृत्य करण्याच्या सवईचे आहेत.
- सदर गुन्हाची व्याप्ती मोठी असल्याने तपास 90 दिवसात पुर्ण करून दोषारोपपत्र मा.न्यायालयात सादर करणे शक्य नसल्याने सदर गुन्ह्यामध्ये महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, चे कलम

21(2)(ब) अन्वये दोषारोपपत्र मा.न्यायालयात सादर करण्याकरीता मुदतवाढ मिळण्याकरीता मा.विशेष शासकीय अभियोक्ता, MCOC कोर्ट, चंद्रपूर यांच्या मार्फत विनंती अर्ज सादर केलेला होता.

6. त्यावरून दि. 06/01/2025 रोजी सदर गुन्ह्यामध्ये दोषारोपपत्र सादर करण्यासाठी 30 दिवस मुदतवाढ मिळण्याकरीता मा.न्यायालयास अर्ज सादर करण्यात आलेला असता मा. न्यायालया कडून दिनांक 18/11/2024 पर्यंत 12 दिवस मुदतवाढ मिळालेली होती. सदर कालावधीमध्ये तपास पूर्ण होवु शकला नाही.

• मुदतवाढ मिळालेल्या कालावधी करण्यात आलेला तपास

- आरोपी क्र. 1, 3, 4, 8, 13, 14 यांचा दि. 26/11/2024 ते 02/12/2024 पर्यंत 7 दिवस पि.सि.आर. घेण्यात आलेला आहे. त्यांना गुन्ह्याच्या अनुशंगाने विचारपुस करण्यात आलेली आहे.
- आरोपी व त्यांच्या नातेवाईकांच्या नावावर असलेल्या शेती, प्लॉट, घर, वाहन याबाबत माहिती विचारण्यात आलेली आहे. त्याबाबत संबंधीत विभागाला पत्रव्यवहार करण्यात आले आहे.
- सदर गुन्ह्यातील फरार असलेला आरोपी याच्या बाबत विचारपणा करण्यात आलेली आहे. पण आरोपी यानी उडवाउडवीचे उत्तर दिलेले आहेत.
- सदर गुन्ह्यात आणखी कोण सहभागी आहे काय? तसेच मदत कोण करत आहे? याबाबत कसुन विचारपुस करण्यात आली आहे.
- आरोपी समीर शेख हा गुन्ह्यात वापरलेले शस्त्र कोणाकडून आणले याबाबत विचारपुस केली असता त्याने सांगितलेल्या व्यक्तीबाबत शाहनिशा केली असता त्याचा खुन झालेला असल्याचे माहिती मिळाली आहे.
- आरोपी सय्यद अबरार याने आरोपी समीर शेख याच्या सोबत हाजीबाबा शेख याला मारण्याच्या प्लॅनिंगमध्ये ज्या वाहनाचा वापर केला होता. त्याबाबत आरोपी सय्यद अबरार यास विचारपुस करून त्याने ज्या ठिकाणी त्याचे वाहन ठेवले होते त्या ठिकाणी जावुन महिंद्रा कंपनीची थार कथीया रंगाची जिचा क्र. एम. एच. 34 बी.व्ही. 9604 किं. अं. 12,00,000/- रु. असलेली दोन पंच व साक्षदार यांच्या समक्ष जप्त करण्यात आलेली आहे.
- आरोपी सय्यद अबरार याने ज्यांच्या कडे त्याचे वाहन ठेवले होते त्यांचे सविस्तर बयान नोंद करण्यात आले आहे.
- आरोपी नामे प्रशांत उर्फ पस्सी राजेंद्र मालवेनी याला गुन्ह्याच्या अनुशंगाने विचारपुस केली असता त्याने स्वखुशीने त्याचे कबुली जबाब देत असल्याचे संमती पत्र दिले असल्याने कलम 18 अंतर्गत 'पोलीस अधीक्षक' दर्जाच्या अधीका-याची नेमणुक करण्याबाबत मा.विशेष पोलीस महानिरीक्षक, नागपूर परिक्षेत्र नागपूर यांना पत्र पाठविण्यात आले होते.
- कलम 18 चे बयान नोंदविण्याकरीता मा.पोलीस अधीक्षक, भंडारा यांची नियुक्त केल्याबाबत मा.विशेष पोलीस महानिरीक्षक यांचे दि.29/11/2024 रोजी पत्र प्राप्त झाले असल्याने दि.30/11/2024 रोजी आरोपी प्रशांत उर्फ पस्सी राजेंद्र मालवेनी यास पोलीस अधीक्षक, भंडारा यांच्या समक्ष कलम 18 चे बयान नोंदविण्याकरीता हजर करण्यात आले होते.
- आरोपी प्रशांत उर्फ पस्सी राजेंद्र मालवेनी याने मा. पोलीस अधीक्षक, भंडारा यांच्या समक्ष कबुली जबाब देणार नसल्याचे सांगितल्याचे पोलीस अधीक्षक यांचे पत्र प्राप्त झाले आहे. त्यावरून आरोपी अक्षय रत्ने यास चंद्रपूर येथे आणुन हवालत बंद करण्यात आले आहे.



- आरोपी यांचे नातेवाईक यांच्या नावावर असलेल्या मालमत्तेबाबत माहिती मिळण्याकरीता दुय्यम निबंधक यांना पत्र देण्यात आले आहेत.
- दुय्यम निबंधक यांच्या कडून आरोपी यांच्या मालमत्तेची माहिती प्राप्त करण्यात आलेली आहे.
- आरोपींच्या बँक खात्याविषयी माहिती प्राप्त करण्यात आलेली आहे.
- कलम 39 भारतीय शस्त्र अधिनियम अन्वये परवानगी मिळण्याबाबत मा.जिल्हादंडाधिकारी, चंद्रपूर यांना पत्र पाठविण्यात आलेले होते.
- सदर गुन्ह्यात दोषारोपपत्र सादर करण्याकरीता कलम 23(2) महाराष्ट्र संघटित गुन्हेगारी अधिनियम 1999 अन्वये मा.अपर पोलीस महासंचालक यांच्या परवानगीची आवश्यकता असल्याने कार्यालयीन जावक क्र. 05/25 दि.06/01/2025 रोजी कलम 23(2) च्या आदेशाकरीता मा.अपर पोलीस महासंचालक, मुंबई यांना प्रस्ताव सादर करण्यात आलेला आहे.
- नमुद गुन्ह्यामध्ये दि. 18/01/2025 पर्यंत तपास पूर्ण होणे शक्य नसल्याने खालील कारणास्तव 18 दिवस मुदतवाढ मिळण्यात यावी.
- गुन्ह्यातील फरार आरोपी नामे किशोर कुंडलीक चानोरे रा. किष्णानगर नंदनवन नागपूर हा घटना तारखेपासून फरार असून त्याचा शोध घेवुन त्याला आश्रय देणा-याची माहिती मिळवुन तपास करून पुरावे गोळा करणे आहे.
- सदर गुन्ह्यात महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, चे कलम 23(2) अन्वये दोषारोपपत्र सादर करण्याची परवानगी प्राप्त करणे करीता मा.अपर पोलीस महासंचालक, महाराष्ट्र राज्य मुंबई यांना प्रस्ताव सादर करण्यात आलेला आहे. त्यांचे आदेश प्राप्त होणे बाकी आहे.
- आरोपी यांच्या बँक खात्याची तसेच मालमत्तेविषयी जी माहिती प्राप्त झालेली आहे. त्या अनुशंगाने तपास करणे आहे.
- आरोपींच्या उत्तनाच्या स्त्रोताबाबत माहिती मिळण्याकरीता आयकर विभाग यांना पत्र पाठविण्यात आले आहे. त्याची माहिती प्राप्त होणे बाकी आहे. ती माहिती प्राप्त होताच पुढील कारवाई करणे आहे.
- सदर गुन्ह्यात इतर पुरावे गोळा करणे आहे.

सदरचा गुन्ह्याचा तपास दिनांक 18/01/2025 रोजी पर्यंत तपास पूर्ण करून दोषारोपपत्र मा.न्यायालयात सादर करणे शक्य नाही. तपासाची व्याप्ती मोठी असल्याने सदर गुन्ह्यातील महाराष्ट्र संघटित गुन्हेगारी नियंत्रण कायदा 1999, चे कलम 21(2) (ब) नुसार 18 दिवस मुदत वाढ मिळण्याकरीता विनंती अर्ज सेवेशी सविनय सादर आहे.

तपासी अधिकारी

अपर पोलीस अधीक्षक, चंद्रपूर

चंद्रपूर,
दि.17/01/2025

True Copy

1. Prepared by _____
2. Compared by _____

Registrar
District Court, Chandrapur
22.4.25

O.W.No./DGP/PP/ 134/2025
Office of District Government
Pleader and Public Prosecutor,
Chandrapur.
Date : 18/01/2025

To,
The Hon'ble Special Judge (MCOCA),
District and Sessions Court,
Chandrapur.

Subject :- Application under Section 21(2)(b) of MCOCA for extension of 18 days for filing Charge-sheet against the accused.

Reference : Letter No. 79/2025, dated 17/01/2025 through Additional S.P. Chandrapur.

Respected / Hon'ble Madam,

On 04/01/2025, Additional S.P. Chandrapur issued letter to me for getting extension of 30 days for further investigation, in Crime No. 798/2024, P.S. Ramnagar, Sections 103(1), 109(1), 189(2)(4), 191(2)(3), 190, 61 of B.N.S. Act, Section 3/25, 4/25 of Indian Arms Act and Section 3(1)(i)(ii), 3(2), 3(4) of MCOCA.

On 12/08/2024, accused Samir Sarvar Sheikh and others killed the deceased Haji Baba Sarvar Sheikh on the point of previous enmity. In further investigation, the Investigating Officer S.D.P.O. Sudhakar Yadav came to know that, there is syndicate of crime for committing said offence. In his investigation, he arrested 13 accused and still one accused Kishor Chanore is absconded. During his investigation, he arrested 13 accused from Nagpur, Chandrapur and Yavatmal Districts. Their criminal records spread over all other districts. The concerned I.O. collected F.I.Rs., Charge-sheets and information's of other co-accused by attending physically and it took so much time. After this, the Investigating Officer came in conclusion that, leveling of

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MCOCA Sections are necessary against the all accused as they had committed this offence syndicatelly. Therefore, on 05/10/2024, the I.O. sent proposal letter to Inspector General of Police, Nagpur Range, Nagpur, through S.P., Chandrapur, for leveling of MCOCA Sections against all accused.

On 25/10/2024, the Inspector General of Police granted permission for leveling of MCOCA Sections, the said letter received on 26/10/2024 to S.P., Chandrapur. After receipt of this letter, the S.P., Chandrapur sent this order to S.D.P.O. Sudhakar Yadav and Additional S.P., Rina Janbandhu on 31/10/2024. On 04/11/2024, S.D.P.O., handed over case diary to Additional S.P., Chandrapur as per direction of S.P. vide letter dated 31/10/2024, for further investigation under MCOCA.

On 04/11/2024, Additional S.P. received case diary and gave letter to J.M.F.C. Chandrapur on 04/11/2024 for increasing of MCOCA Sections and also gave letter to J.M.F.C. for sending MCR and case documents to MCOCA Court.

As the MCOCA Sections are increased, the further investigation is necessary regarding getting property details of all accused and their relatives. Whether the concerned accused got economical benefits while committing such syndicate crime? Investigation required from absconded accused and other probable co-accused and supporters, there are fairer chances of demanding PCR of other co-accused. Moreover, prior to filing of charge-sheet, permission is required from Additional Director General of Police, Mumbai, under Section 23(2) of MCOCA.



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The Hon'ble Court has pleased to pass an order on 07/12/2024 and granted time to file the charge-sheet till 06/01/2025. But in the said crime till 06/01/2025, completion of investigation not possible due to following reasons, those reasons are-

01) As per information given by accused during their PCR investigation is to be done as per crime.

02) Correspondence has been made with various banks and organizations to seek information about movable or immovable property in the names of accused. The information is yet to be received.

03) Correspondence has been made with Income Tax Department regarding accused and informant yet to be received.

04) Information about the vehicles registered in the name of some accused has been received, the whereabouts of those vehicles is to be investigated.

05) The absconding accused Kishor Kundalik Chanore, r/o Krishnagara Nandanwan, Nagpur, in the crime is absconding from the date of the incident and the purpose is to search for him and get the information of the person who gave him shelter and investigate and collect evidence.

06) Necessary permission is to be obtained to file a charge-sheet under Section 23(2) of MCOCA Act, in the said offence from the Additional Director General of Police, Maharashtra State, Mumbai.

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07) Letter No. 5/2025 dated 06.01.2025 has been sent to Additional Director General of Police, Mumbai for permission to file a charge-sheet under Section 23(2) of the MCOCA in the present case. Their order is awaited.

08) It is not possible to complete the investigation of the said crime till 18/01/2025 and submit the charge sheet before the Hon'ble Court. As the scope of investigation is at large, hence, application for extension of time for 18 days under section 21(2)(b) of MCOCA of the said offence

Looking to the all above reasons, I came in conclusion that, extension of 18 days for filing charge-sheet against the arrested accused is necessary. Therefore, I humbly prayed that, the time of filing charge-sheet for 18 days, may kindly be granted, in the interest of justice.

Hence, this application.

Yours faithfully,

Additional Public Prosecutor,
Chandrapur.



1st APPLN

neither there are specific reasons to detain the accused and therefore, grounds are repeated in all these applications. Accordingly, those grounds cannot be said to be sufficient to extend the time again and again.

17. It is needles to mention at this juncture that after every application, the appellants herein have filed applications for grant of default bail which were turned down by the concerned Court by its orders dated 09.12.2024. 08.01.2025 and 05.02.2025 on the ground that the learned Special Court has extended time and therefore, the appellants cannot claim statutory bail and accordingly those applications were rejected.

18. From the above facts, it can be gathered that the applications are filed in a routine manner and the orders are passed casually without adhering to Section 21(2)(b) of the MCOCA.

19. Further, merely by observing, that the learned Special Judge has perused the case diary by itself is not sufficient since the report of the Public Prosecutor has to show progress of

investigation including relevant material collected during investigation. The Special Judge has miserably failed to track the progress of investigation and identify the reasons for further detention of the appellants.

Therefore, the Additional Public Prosecutor, Chandrapur has miserably failed to apply his mind on the contrary, by filing applications for extension. He has only done the translation of the applications which were filed by the Additional Superintendent of Police. Further, the Special Judge has also failed to consider that there is no valid ground to extend the time and further there is absolutely no justification in order to continue detentions of the appellants. Needless to mention at this juncture and as well as the learned Special Judge failed to apply its mind to Section 21(2)(b) of the MCOCA and therefore, the applications are filed without application of mind and order passed thereon are against the spirit of Section Section 21(2)(b) of the MCOCA

20. Mr. Doifode, learned Additional Public Prosecutor while arguing vehemently submitted that after filing of charge-

sheet, the right of the accused to claim statutory bail is extinguished.

21. However, learned senior counsel appearing for appellants submitted that the indefeasible right of accused cannot be extinguished though charge-sheet is filed as the appellants had filed applications and exercised their option to obtain bail which were rejected on the ground of grant of extension. He further submits that once the order of grant of extension is set aside, their right to get default bail is automatically revived. Learned senior counsel to buttress his submission has relied on the following ratios laid down by the Hon'ble Supreme Court in the cases of ***Sanjay Dutta Vs. State through C.B.I. Bombay(II), (1994) 5 SCC 410*** and ***M. Ravindran Vs. Intelligence Officer, Directorate of Revenue Intelligence, (2021) 2 SCC 485***. The Hon'ble Supreme Court in case of ***M. Ravindran*** observed in para 25 as under:-

“25. Therefore, in conclusion:

25.1 Once the accused files an application for bail under the Proviso to Section 167(2) he is deemed to have

'availed of' or enforced his right to be released on default bail, accruing after expiry of the stipulated time limit for investigation. Thus, if the accused applies for bail under Section 167(2), CrPC read with Section 36A (4), NDPS Act upon expiry of 180 days or the extended period, as the case may be, the Court must release him on bail forthwith without any unnecessary delay after getting necessary information from the public prosecutor, as mentioned supra. Such prompt action will restrict the prosecution from frustrating the legislative mandate to release the accused on bail in case of default by the investigative agency.

25.2 The right to be released on default bail continues to remain enforceable if the accused has applied for such bail, notwithstanding pendency of the bail application; or subsequent filing of the chargesheet or a report seeking extension of time by the prosecution before the Court; or filing of the chargesheet during the interregnum when challenge to the rejection of the bail application is pending before a higher Court."

22. The meaning of "if not already availed of" in Sanjay Dutt case (*supra*) is clarified by the Hon'ble Supreme Court and interpreted in the case of ***Bikramji Singh Vs. State of Punjab, (2020) 10 SCC 616*** and M. Ravindran (*supra*). It would be

useful to refer paragraph 29 in Bikramji Singh (*supra*) as under:-

“29.In the aforesaid premises, we are of the considered opinion that an accused must be held to have availed of his right flowing from the legislative mandate engrafted in the proviso to sub-section (2) of Section 167 of the Code if he has filed an application after the expiry of the stipulated period alleging that no challan has been filed and he is prepared to offer the bail that is ordered, and it is found as a fact that no challan has been filed within the period prescribed from the date of the arrest of the accused. In our view, such interpretation would subserve the purpose and the object for which the provision in question was brought on to the statute-book. In such a case, therefore, even if the application for consideration of an order of being released on bail is posted before the court after some length of time, or even if the Magistrate refuses the application erroneously and the accused moves the higher forum for getting a formal order of being released on bail in enforcement of his indefeasible right, then filing of challan at that stage will not take away the right of the accused. Personal liberty is one of the cherished objects of the Indian Constitution and deprivation of the same can only be in accordance with law and in conformity with the provisions thereof, as stipulated under Article 21 of the Constitution. When the law provides that the Magistrate could authorise the detention of the accused in custody up to a maximum

period as indicated in the proviso to sub-section (2) of Section 167, any further detention beyond the period without filing of a challan by the investigating agency would be a subterfuge and would not be in accordance with law and in conformity with the provisions of the Criminal Procedure Code, and as such, could be violative of Article 21 of the Constitution. There is no provision in the Criminal Procedure Code authorising detention of an accused in custody after the expiry of the period indicated in proviso to sub-section (2) of Section 167 excepting the contingency indicated in Explanation I, namely, if the accused does not furnish the bail...But so long as the accused files an application and indicates in the application to offer bail on being released by appropriate orders of the court then the right of the accused on being released on bail cannot be frustrated on the off chance of the Magistrate not being available and the matter not being moved, or that the Magistrate erroneously refuses to pass an order and the matter is moved to the higher forum and a challan is filed in interregnum. This is the only way how a balance can be struck between the so-called indefeasible right of the accused on failure on the part of the prosecution to file a challan within the specified period and the interest of the society, at large, in lawfully preventing an accused from being released on bail on account of inaction on the part of the prosecuting agency. On the aforesaid premises, we would record our conclusions as follows:

3. On the expiry of the said period of 90 days or 60 days, as the case may be, an indefeasible right accrues in favour of the accused for being released on bail on account of default by the investigating agency in the completion of the investigation within the period prescribed and the accused is entitled to be released on bail, if he is prepared to and furnishes the bail as directed by the Magistrate.

6. The expression “if not already availed of” used by this Court in Sanjay Dutt case must be understood to mean when the accused files an application and is prepared to offer bail on being directed. In other words, on expiry of the period specified in para (a) of the proviso to sub-section (2) of Section 167 if the accused files an application for bail and offers also to furnish the bail on being directed, then it has to be held that the accused has availed of his indefeasible right even though the court has not considered the said application and has not indicated the terms and conditions of bail, and the accused has not furnished the same.”

Therefore, in the light of the above, it is crystal clear that in case the orders of extension are set aside so also the orders of rejecting the bail application by the higher Court, then the right to be released on default bail continues to remain enforceable as in the present case the appellants had already availed their indefeasible right to claim statutory bail.

23. Therefore, considering the above facts and circumstances, we are of the considered view, that the Public Prosecutor has not applied his mind nor has he recorded his satisfaction about the progress of investigation and specific reasons for the detention. Further the applications filed for extension by the learned Special Additional Public Prosecutor are translated version of Marathi reports filed by Investigating Officer and there is no independent application of mind by the Special Additional Public Prosecutor. The learned Special Judge has utterly failed to consider the provisions of Section 21(2)(b) of the MCOCA in its true perspective. Not only in a routine manner the orders were passed by granting extension of time, but also The learned Special Judge gave a complete go bye to 21(2)(b) of the MCOCA and therefore, deprived the accused of their indefeasible right of default bail.

24. Further submission of the learned Additional Public Prosecutor is that, total five applications were filed for grant of extension of time and orders are passed on it by granting

extension of time to file charge-sheet. According to Additional Public Prosecutor, if earlier extensions granted by the Special Court are not challenged then further orders granting extensions cannot be challenged when the charge-sheet is filed within the period of extension granted and therefore, appellants are not entitled to default bail. To support his submission, he has relied on the Supreme Court Judgment in the case of Qamar Ghani Osmani (*supra*). The issue involved in Qamar Ghani's case is that when the extension of time for completing the investigation was prayed by the Investigating Agency and granted by the Trial Court, the accused was not kept present. However, here it is not such an issue and therefore, this judgment would not be applicable in this case.

25. Article 21 of the Constitution of India protects personal liberty and Article 22 of the Constitution of India provides safeguards to the accused or the persons detained on similar lines. Taking into consideration proviso to Section 21(2)(b) of the MCOCA the legislature intended to safeguard the interest of the accused who is likely to be detained beyond

period of 90 days and therefore, three conditions are laid down. Liberty of person can be curtailed only by procedure established and therefore, so far as the present case is concerned, the duty has been casted upon the learned Special Public Prosecutor/ Public Prosecutor and the concerned Special Judge to adhere to the proviso to Section 21(2)(b) of the MCOCA.

26. We find that considering the above, there is flagrant violation of provision to Section 21(2)(b) of the MCOCA and the accused persons are deprived of their right to obtain default bail under Section 187(2)(i) of the BNSS. Thus, in the present facts and circumstances, once the order granting extension is held illegal, the appellants are entitled to statutory bail under Section 187(2)(i) of the BNSS for default bail. Hence, we pass the following orders:-

(I) Appeal is allowed in terms of prayer clauses (A), (B) and (C) read as under along with following conditions:-

(A). Quash and set aside the orders dated 07.12.2024, 04.01.2025 and 18.01.2025 whereby the learned Special Judge, Chandrapur had extended the time for the Investigating Agency for filing the chargesheet. (Annexure-M, O and R)

(B). Quash and set aside the orders dated 09.12.2024, 08.01.2025 and 05.02.2025 whereby the Learned Special Judge, Chandrapur had rejected the application under Section 187(2)(i) of the Bhartiya Nagarik Suraksha Sanhita, 2023 filed by the appellants. (Annexure – F2, P and S)

(C) Enlarge the appellants on Bail in offence registered with Police Station – Ramnagar, Dist. Chandrapur as crime no.798 of 2024 for the commission of offence under Section 103(1), 109(1), 189(2), 189(4), 190, 191(2), 191(3) and 61 of the Bhartiya Nyaya Sanhita, 2023 and 3, 4 and 25 of the Indian Arms Act & 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crimes Act, 1999 and 135 of Maharashtra Police Act.”

(I). The appellants namely Mohsin Nasir Sheikh, Abhijit @ Pawan Moreshwar Katare and Sheikh Nasif Sheikh Rashid be released on bail in connection with Crime No. 798/2024 for commission of offence under Sections 103(1), 109(1), 189(2), 189(4), 190, 191(2),

191(3) and 61 of the BNS, Sections 3, 4 and 25 of the Indian Arms Act, 1959, Sections 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (“MCOCA”) and 135 of the Maharashtra Police Act on furnishing PR Bond of Rs.50,000/- each with two sureties in the like amount.

(II) The appellants shall regularly attend the Trial Court as and when called by the Trial Court.

(III) The appellants shall not directly or indirectly tamper with the evidence or make any inducement, threat or promise to any person acquainted with the findings of the case.

(IV) The appellants shall furnish their addresses of their residence and where they will be residing along with their mobile numbers to the Investigating Officer. The said addresses shall not be changed without giving intimation to the Investigating Officer.

(V) The appellants shall attend the concerned Police Station on every Sunday between 10.00 a.m. to 01.00 p.m., initially, for a period of three months and thereafter, on every 2nd and 4th Sunday of every month between 12.00 noon to 05.00 p.m. till conclusion of their trial.

27. The prosecution would be at liberty to apply for cancellation of bail before the learned Special Judge/Court, if the appellants breach any of the above conditions.

28. All the concerned to act on uploaded/authenticated copy of this order.

29. Appeal stands disposed of in above terms.

(M. M. NERLIKAR , J.)

(ANIL L. PANSARE, J.)

Gohane