

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

924. CRI.APPLN/6541/2014 WITH CRI.APPLN/6887/2014

TANAJI S/O NARAYAN SATHE AND OTHERS
V/S
THE STATE OF MAHARASHTRA

Mr. G.J. Kore h/f. Mr. S.A. Nandure, Advocate for applicant in CA No. 6541/2014.

Mr. S.A. Gaikwad, Advocate for applicant in CA No. 6887/2014.

Mr. R.P. Phatke, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 11th February, 2015.

ORDER :

1. After advancing arguments exhaustively, when this Court expressed that this Court is not inclined to grant relief, the learned counsel for the applicant appearing in Criminal Application No. 6887/2014 on instruction submits that he wants to withdraw the application. Criminal Application No. 6887/2014 is disposed of as withdrawn.

2. Criminal Application No. 6541/2014 is filed for bail. Both the sides are heard. This Court has perused the papers of investigation. Both the sides have placed reliance on some reported cases. The chargesheet is filed for offences punishable under sections 395, 396, 397, 364, 201 etc. of I.P.C. and also

under sections 3 (1) (ii), 3 (2), 3 (4), 3 (5) of Maharashtra Control of Organised Crime Act, 1999 ('MCOC Act' for short).

3. The incident in question took place on the night between 30.4.2014 and 1.5.2014. The complainant was taking goods like gunny bags of sago (sabudana) in his truck on that night towards Rajasthan. His truck was intercepted by one Bolero vehicle and four persons boarded the truck. They were holding weapons. Allegations are made that they gave severe beating to the complainant/driver and then they tied the hands and legs of both the complainant and second driver and kept them on the backside. The truck was then being driven by dacoites. They took away the articles like mobile phones of complainant and second driver and cash amount was also taken which was more than Rs. 16,000/-. Then they threw complainant in a ditch. The report was given that the dacoites had taken away the truck and goods worth more than Rs. 15 lakh. The description of the dacoites was given by the driver.

4. During investigation, it transpired that the second driver was murdered by these persons and so, after investigation crime came to be registered for aforesaid offences. The submissions made and sanction order show that they have

formed a gang, syndicate and they are committing similar offences. The name of the leader is given in the order and against him many similar crimes are registered. The gang leader is shown to be involved in the present matter. As against present applicant, there is record of test identification parade showing that he is identified by aforesaid witness. There is record of statements of some employees of hotel where present applicant had gone with his associates when he had taken aforesaid truck there after the incident. There is record like CDR record showing that he was in touch with the leader of the gang namely Raja. In addition to that, there is record of confessional statement, which can be said to be under section 18 of MCOC Act, admitting the role played in the aforesaid incident. The learned counsel for the applicant submitted that present applicant was not involved in the murder and even confessional statement does not show that he had gone to the spot where the dead body of the second driver was found. This submission cannot be accepted as they were working as members of one syndicate. Two crimes like C.R. Nos. 39 and 58 are registered against the present applicant for commission of similar offences.

5. The learned counsel for the applicant placed reliance on some reported cases like **AIR 2014 SC 2660 [Mahipal**

Singh Vs. C.B.I. and Anr.], two cases decided by this Court bearing **Criminal Appeal No. 239/2011 dated 6.5.2011 [The State of Maharashtra Vs. Rahul Ramchandra Taru]** and **Criminal Appeal No. 202/2006 dated 8.12.2006 [Sherbahadur Akaram Khan Vs. The State of Maharashtra]**. He submitted that provisions of MCOC Act cannot be used against the applicant. On the other hand, the learned APP placed reliance on the case decided by Division Bench of this Court reported as **2009 (3) Bom.C.R. (Cri.) 144 [Govind Sakharam Ubhe Vs. State of Maharashtra]**.

6. The material as against the applicant is sufficient to show that he was working as a member of syndicate of which Raja was the leader and the present offence was committed as a part of the operations of that syndicate. In view of the bar provided by the provision of MCOC Act, this Court holds that it is not a fit case to grant bail. It appears that other accused namely Madhukar Shinde had approached this Court for bail and other Hon'ble Judge of this Court rejected his application by the order dated 11.12.2014. The case of the present applicant is not different from the case of that accused and further there is more material on record as against the present applicant.

7. In the result, the application is rejected.

[T.V. NALAWADE, J.]

ssc/