

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1231 OF 2015

Bhola @ Bhopal Shivaji Jadhav ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. A.H.H.Ponda i/b. Mr. S.R.Ghanavat for the Applicant
Mr. Rajesh More, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 01, 2015.**

P.C.

1. This is an application for bail filed by the aforesaid applicant who is an accused no.2 in Special Case No.1 of 2014 pending on the file of Special Judge, Pune for offence under Section 327, 452, 385, 504 r/w. 34 of IPC and under Section 32, 33, 34 of Money Lenders Act and under Section 3(ii), 3(iii), 3(iv) of MCOC Act.

2. Heard Shri Ponda, the learned counsel for the applicant. He submitted that the only role attributed to the applicant is in respect

of the incident dated 25.6.2012. He has submitted that the present complaint is lodged after more than a year after the alleged incident. He has submitted that though the house of the applicant was searched, no incriminating material was recovered or seized .

3. Shri Ponda further submitted that that subsequent to the registration of crime No.153 of 2013, the police have registered three crimes for the offences allegedly committed between the year 2002 to 2010. The prosecution has invoked the provisions of MCOC Act on 19.10.2013 based on the said crimes which were registered subsequent to the registration of crime No.153 of 2013. He therefore claims that the applicability of the provisions of the MCOC Act is itself in question. He has further submitted that the applicant is already granted bail in the said three crimes. Furthermore, the co-accused who are allegedly involved in the incident dated 16.8.2013 have already been granted bail. He has submitted that the applicant is languishing in jail since 16.8.2013 and considering the nature of the allegations levelled against him, the applicant is entitled for bail.

4. The learned APP for the State has submitted that the applicant and his associate Rajendra Baburao Jadhav are involved in lending money in violation of the provisions of Money Lending Act. They have been charging exorbitant interest rate and on default to repay the said amount, they grab the properties of the borrowers by illegal means. The learned APP has submitted that the applicant has indulged in continuous unlawful activities. The offences are of serious nature and hence the applicant is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the state. The records prima facie reveal that Crime No. 153 of 2013 was registered pursuant to the FIR lodged by one Shankar Chavan. The first informant-complainant had alleged that in the year 2010 he had taken loan of Rs. 1 lakh from the co-accused Rajendra Jadhav on payment of interest at the rate of 10% per month. He was unable to repay the said loan in time in view of which the accused had persisted that he should transfer his paddy field in his name.

6. The complainant had alleged that on 25.6.2013 the said accused Rajendra Jadhav along with the applicant-accused herein and others had come to his house and under the threat compelled him to sign the agreement for sale, wherein it was falsely recorded that an amount of Rs.10 lakhs was paid as earnest money to the complainant. Subsequently, the complainant paid an amount of Rs.5 lakhs to the co-accused Rajesh Jadhav. There are allegations that even subsequent to the payment of the said money Rajesh Jadhav had compelled the complainant to transfer the lands and/or pay Rs.25 lakhs. He has further stated that on 16.8.2013 said Rajesh Jadhav and his associates had come to his house armed with sticks and iron rods and that they had abused and assaulted him and his family members.

7. A perusal of the said complaint prima facie reveals that the allegations levelled against the applicant are in respect of the incident dated 25.6.2012. The complainant had not lodged any complaint against the applicant or said Rajesh Jadhav for over a period of one year. It is also to be noted that though the provisions

of MCOC Act were added subsequently, the crime No.32 of 2013, 35 of 2013 and 45 of 2013 were registered subsequent to the registration of crime No.153 of 2013. Crime No. 32 of 2013 is in respect of the offence which was allegedly committed on 4.1.2010. Similarly, crime No.35 of 2013 and 45 of 2013 are in respect of the offences committed in the year 2007 and 2000 respectively. It is pertinent to note that the applicant has been released on bail in the said crimes. Be that as it may, considering the fact that the said crimes i.e. crime nos. 32/2013, 35/2013 and 45/2013 were registered subsequent to the registration of crime no.153 of 2013, in my considered view the applicability of provisions of MCOC Act is itself doubtful.

8. The other co-accused who are involved in the incident of assault on 16.8.2013 are already on bail. The applicant is in custody from 16.8.2013. It is stated that the charge is not yet framed and the trial has not commenced. The delay in trial is also one of the factors for granting the application.

9. Considering the above circumstances, in my considered view the application can be allowed on the following terms and conditions:-

- i) The applicant be released on bail, on the applicant furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two solvent sureties in the like amount to the satisfaction of the Special Court, Pune.
- ii) The applicant shall not interfere with the witnesses or tamper with the evidence in any manner.
- iii) The applicant shall appear before the trial court on each and every date of hearing.

(ANUJA PRABHUDESSAI, J.)