

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.153 OF 2015**

Vijay Suresh Jadhav	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Umesh R. Mankapure for the Applicant

Mr. S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

WEDNESDAY, 26TH AUGUST, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 153 of 2013 registered with the Vishrambag Police Station, Sangli.

3. It appears that initially the applicant was arrested in the aforesaid C.R for the alleged offences punishable under Sections 327, 452, 385 of the Indian Penal Code, 1870 and under Sections 32, 33, 34 of the

Bombay Money Lenders Act. In the aforesaid C.R, the applicant was enlarged on bail on 3rd September, 2013 by the learned Judicial Magistrate, First Class, Sangli. Subsequently, i.e. on 19th October, 2013, the MCOC Act came to be applied to the aforesaid C.R and the applicant was rearrested on 21st October, 2014. Accordingly, the applicant, in addition to the aforesaid Sections was also charged for the offences punishable under Sections 3(1)(ii), 3(2) and 3(4) of the MCOCA Act.

4. The learned Counsel for the applicant seeks bail on the ground of parity. He submits that in the aforesaid C.R, two other co-accused i.e. Vinayak Vijay Keripale and Ramchandra Baban Mane have been enlarged on bail by this Court (Coram : A. M. Thipsay, J.) vide order dated 6th August, 2014. He submitted that the applicants were enlarged on bail under Section 167(2) of the Code of Criminal Procedure. Learned A.P.P on instructions does not dispute the said fact that the applicant stands on par with the other two co-accused, who have been enlarged on bail by this Court.

5. It is not disputed that the prosecution had not challenged the

bail granted by the learned Magistrate to the applicant on 3rd September, 2014 by filing an application for cancellation of his bail. It is also not disputed that the order dated 6th August, 2014 passed by this Court, enlarging the co-accused on bail, in Criminal B.A. No. 749 of 2014 has not been challenged by the prosecution. In the order dated 6th August, 2014, whilst enlarging the co-accused on bail, this Court had observed in paras 4 and 5 as under :

“4. The grievance of the learned counsel for the applicants is that though pursuant to the bail order, the applicants had furnished the sureties and had even executed the bail bonds, before their actual release, the provisions of the MCOC Act came to be applied to the facts of the said case; and that, therefore, the applicants were not released on bail inspite of there being a bail order in their favour and inspite of the sureties having been furnished by them in accordance with the bail order.

5. Simply because the provisions of the MCOC Act were applied to the case later, the bail order passed by this court would not come to an end. I have, therefore, specifically questioned the learned Additional Public Prosecutor as to whether the bail granted to the applicants by this court was got cancelled by the investigating agency, after invocation of the provisions of the MCOC Act. It is conceded by the learned APP, on obtaining telephonic instructions from the Dy.S.P. Sangli City, that no such application for cancellation of the bail was made and no order, cancelling the bail granted to the applicant, was passed by any court. It is, therefore, clear that the bail order passed in favour of the applicants has wrongly been defeated by the investigating agency. It chose not to release them on bail by invoking the provisions of the

MCOC Act. This indicates that the trial court is also to be blamed for not releasing the applicants on bail, despite the bail order passed by this court in their favour.”

6. Considering the fact, that the applicant is identically placed as the other co-accused who were enlarged on bail under Section 167(2) of the Code of Criminal Procedure, the applicant is also granted bail. Accordingly, the applicant is ordered to be released on bail on the following terms and conditions :

ORDER

- (i) The applicant be released on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall not tamper or attempt to contact any witness concerned with the case;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant shall cooperate in the conduct of the trial;

- (v) The applicant shall attend the concerned Police Station once in a month on the first Saturday of every month between 11:00 a.m. to 12:00 noon till the conclusion of the trial;
- (vi) The applicant shall not leave Sangli City without the permission of the Court, except for attending the court case at Pune on the scheduled dates;
- (vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. It is made clear that the aforesaid observations are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.