

Criminal Application No. 3426 of 2016

District : Jalna

versus

The State of Maharashtra,
Through Police Station Officer,
Police Station, Chandan Zira,
Taluka & District : Jalna. .. Respondent.

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Mr. S.G. Nandedkar, Advocate, holding for
Mr. D.Y. Nandedkar, Advocate, for the applicant.

Mr. S.D. Ghayal, Addl. Public Prosecutor, for
the respondent.

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CORAM : A.M. BADAR, J.

DATE : 20TH AUGUST 2016

ORAL ORDER:

The applicant / accused in Crime No. 22/2014, for offences punishable under Section 394 read with Section 34 of the Indian Penal Code and under Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 [For

short, "MCOC Act"], by the instant application, is praying for releasing him on bail.

2. Heard the learned Counsel for the applicant / accused. He argued that the main accused in this crime is one Shivaji Bhagde. No role is attributed to the present applicant in the crime in question. The learned Counsel by drawing my attention to the FIR has argued that it was the main accused who had assaulted informant Vilas Bairagi and looted sum of Rs. 30,00,000/-. The learned Counsel further argued that recovery of Rs. 40,000/- does not connect the applicant to the crime in question. It is further argued that provisions of MCOC Act are not applicable to the present applicant / accused because in two charge-sheets filed against him, he is already released on bail and there is no recovery or no identification of the present applicant in those crimes.

3. The learned Addl. Public Prosecutor opposed the application by contending that record of investigation prima facie reveals complicity of the present applicant in the crime in question. The learned Addl. Public Prosecutor further argued that provisions of the MCOC Act are rightly made applicable to the case in hand and in view of the bar of Section 21 thereof, the applicant is not entitled to be released on bail.

4. Perused the charge-sheet. The case in hand is a day light dacoity in which sum of Rs. 30,00,000/- was looted by the organized crime syndicate comprising of the present applicant. The FIR came to be lodged by Vilas Bairagi, Cashier of Chikhali Urban Bank Ltd., Jalna, on 18.10.2014. According to the prosecution case, Vilas Bairagi, Cashier and Govind Vyas, Peon of Chikhali Urban Bank Ltd. were transporting cash of Rs. 30,00,000/- of the said Bank and near Hanuman Mandir, their rickshaw was accosted by a Scorpio vehicle. One person alighted from that Scorpio whereas rest of the dacoits sat in the Scorpio vehicle. As per version of the informant, who is eye witness to the incident, the said person assaulted him, snatched the bag containing amount of Rs. 30,00,000/- and put it in Scorpio. The dacoits then flee away from the spot by Scorpio vehicle.

5. Perusal of the FIR as well as statements of eye witnesses do shows that they were having opportunity to witness the incident and the dacoits. During the course of investigation, in the test identification parade, informant Vilas Bairagi, so also Govind Vyas have identified present applicant as one of the dacoits involved in the offence of looting the cash amount of Rs. 30,00,000/-.

6. Record of investigation shows that in past 10 years, at least two charge-sheets, as required by provisions of the MCOC Act have been filed against the members of the organized crime syndicate. What material the charge-sheet should contain is not the requirement of the MCOC Act. Suffice to state that charge-sheets arising out of Crime No. 191/2014 for the offence punishable under Section 393 of the IPC and Crime No. 157/2014 for the offence punishable under Section 395 of the IPC, have already been filed against present applicant as well as co-accused.

7. Prima facie it is seen that the present applicant was member of organized crime syndicate which indulged in continuing unlawful activities, as a member thereof, by using violence or threat with an object of gaining pecuniary advantage. Perusal of the charge-sheet does not show any reasonable ground to come to the conclusion that the present applicant is not guilty of the offence punishable under provisions of MCOC Act. Hence, no case for granting release on bail is made out.

8. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

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