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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.5565 OF 2016

Tejrao @ Nagorao s/o Gangaram
Hanumantu Chavan, Age: 37 years,
R/o. Labour, R/o. Higni,
Ta. Biloli, Dist. Nanded. ..APPLICANT

VERSUS

The State of Maharashtra
Police Inspector Kundalwadi
Police Station, Nanded. ..RESPONDENT

Mr S.A. Gaikwad, Advocate for applicant;
Mr S.D. Ghayal, Addl. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 21st NOVEMBER, 2016

ORAL ORDER :

Heard.

2. By present application filed under Section 439 of the Code of Criminal Procedure, the applicant seeks his release, as he has been arrested in connection with Crime No. 1 of 2011 registered at Kundalwadi Police Station, District

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Nanded for offences punishable under Sections 3(1) (2), 3(2), 3(4) of the Maharashtra Control of Organized Crimes Act, 1999.

3. It is submitted on behalf of the applicant that the offence was registered against 14 persons by treating them as members of gang that was indulging in organized crime. The leader of gang as well as other members stand released on account of separate orders passed by this Court. It is submitted that as per first information report, there is no reference to any continuing unlawful activity of the present applicant, on the basis of which, he is liable to convicted under the aforesaid offences. It is further submitted that no substantive offence under the provisions of Indian Penal Code has been alleged to have been committed by the applicant.

4. The application is opposed by learned Additional Public Prosecutor by submitting that the applicant was member of gang that had indulged in

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various activities of organized crime and therefore he is not entitled to be released on bail. He, however does not dispute the fact that other accused stand released by virtue of various orders passed by this Court.

5. Perused the first information report as well as the orders passed by this Court in Criminal Application No. 6952 of 2015 and Criminal Application No. 3523 of 2016. The aforesaid orders arise out of same crime and this Court has observed that there is no material to indicate the continuing unlawful activity for booking the accused persons under the provisions of Maharashtra Control of Organized Crimes Act, 1999 as regards the said applicants. The case of present applicant is also on same footing and there is no independent offence registered under the Indian Penal Code against him. Hence, for the reasons contained in the order dated 4th February, 2016 in Criminal Application No. 6952 of 2015 and in the order dated 14th September, 2016 in Criminal Application No.

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3523 of 2016, the application is liable to be allowed. Accordingly, following order is passed :-

(i) The applicant in Crime NO. 1 of 2011 registered at Kundalwadi police station, Dist. Nanded for the offences punishable under Sections 3(1)(2), 3(2), 3(4) of the Maharashtra Control of Organized Crimes Act, 1999 be released on bail on executing P.R. bond of Rs.25,000/- and on furnishing surety in the like amount.

(ii) The applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iii) The applicant shall not tamper the evidence of the prosecution.

(iv) The applicant shall co-operate the trial Court in expeditious disposal of the trial against him.

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6. Criminal Application is allowed on above terms and same is disposed of.

(A.S. CHANDURKAR, J.)

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