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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2447 OF 2015**

Rajendra Baburao Jadhav ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr.A.H.H.Ponda i/b Mr.Sukumar Ghanwat, for the Applicant

Mr.Arfan Sait, A.P.P for the Respondent-State

SDPO – Dhiraj Patil, Sangli.

CORAM : REVATI MOHITE DERE, J.

DATE : 21st MARCH, 2016

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, for the alleged offences punishable under Sections 327, 452, 385, 504, 506 of the Indian Penal Code and under Sections 3(ii), 3(iii), 3 (iv) of the MCOC Act.
3. According to the complainant, the present applicant along with

other co-accused came to his house on 25th June, 2012 and compelled him to sign an Agreement for Sale, wherein, it was falsely recorded that an amount of Rs.10,00,000/- was paid as an earnest money to the complainant. According to the complainant, he subsequently paid an amount of Rs.5,00,000/- to the present applicant. It is further alleged by the complainant that the applicant was compelled to transfer the land and/or to pay a sum of Rs.25,00,000/-. He has alleged that the present applicant along with other co-accused would regularly come to his house, armed with sticks and iron rod, abuse and assault him and his family members and would demand money. The allegations levelled in the aforesaid CR, are with respect to an incident which had taken place on 25th June, 2012, and is lodged after more than one year of the incident, i.e. on 16th August, 2013. The provisions of MCOC Act were subsequently added on 19th October, 2013 to the said C.R.

4. Learned Counsel for the Applicant submitted that it was only after the registration of the aforesaid CR on 16th August, 2013, pertaining to an incident of 25th June, 2012, that 8 offences were registered between the period, August – October, 2013, and prior to invocation of the MCOC

Act. Mr.Ponda relied on an order passed by this Court (Coram:Smt. Anuja Prabhudessai, J.) dated 1st December, 2015,in Criminal Bail Application No.1231 of 2015 in support of his submission, more particularly para 7 of the said order. Learned Counsel for the Applicant submitted that in all the 8 cases, the applicant has been enlarged on bail, and only because MCOC was applied in the aforesaid CR, the applicant is languishing in jail for the last three years. He submitted that the applicability of MCOC is doubtful in the present case, inasmuch as, all the 8 CRs which were registered as against the applicant, were registered after the registration of CR No.153 of 2013 and before invoking the provisions of the MCOC Act. He submitted that the applicant has been in custody since 16th August, 2013 and that till date charge has not been framed. He submitted that infact, there are six statements in the charge-sheet, which show that the nature of transactions that were entered into by the applicant with them were genuine transactions.

5. Learned APP opposed the bail application. He submitted that the applicant is the prime accused and the applicant will threaten the complainant and the witnesses in the said case, if he is enlarged on bail. He

submitted that the applicant had threatened the complainant and had got certain documents signed from the complainant, under threat, coercion and by assaulting him.

6. Perused the charge-sheet. Also perused the order dated 1st December, 2015 passed by this Court (Coram:Smt. Anuja Prabhudessai, J.) in Criminal Bail Application No.1231 of 2015, in particular para 7 of the said order, which reads thus :-

“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.” (Emphasis supplied)

It appears that the aforesaid CR was lodged almost after one year, of the alleged incident of 25th June, 2012. It also appears, that in all the 8 CRs which were registered subsequently, after the registration of the aforesaid C.R and before invocation of the MCOC Act, the applicant has been enlarged on bail. Prima-facie, it is doubtful, whether the provisions of MCOC Act, would apply in the facts of the present case.

7. Considering the aforesaid and in the peculiar facts and circumstances of this case, and the fact that trial is not likely to commence in the immediate near future and the fact that applicant has been in custody for more than three years, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 1,00,000/- with one or two solvent sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on every Saturday between 10:00 a.m. to 11:00 a.m., initially for a period of 4 months after his release and thereafter on the 1st and 3rd Saturday of every month, between 10.00 a.m. to 11.00 a.m., for a period of six months thereafter; and thereafter on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, till the conclusion of the trial;

(iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;

(iv) The Applicant shall not leave the jurisdiction of Sangli District, without the permission of the Trial Court, for a period of 12 months;

(v) 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;

(vi) The applicant to cooperate with the conduct of the trial;

(vii) An undertaking to the aforesaid clauses ii) to vi), shall be filed by the Applicant, in the Trial Court, within two weeks after his release.

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

9. It is made clear, that the observations made herein 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.

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

REVATI MOHITE DERE, J.