

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

CRIMINAL BAIL APPLICATION NO. 1125 OF 2016

Vikrant @ Vicky Dattatray Deshmukh.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Aniket Vagal, advocate for applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 23, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973 seeking enlargement on bail. The applicant herein is arrested on 25/9/2012 in Crime No. 257 of 2012 registered at Kharghar Police Station for offence punishable under Section 307,

read with Section 34 of the Indian Penal Code and Section 3, 25 of the Indian Arms Act.

3 On 9/9/2012 the Jailor of Taloja Jail had lodged a report alleging therein that the present applicant and his associates were in Taloja Jail, as they were facing prosecution under the provisions of MCOC Act. That his associates namely Mahesh Shetye and Sachin Garje were also lodged in the same jail. They used to create law and order situation and therefore, associates of the present applicant were transferred to another barrack. The applicant had grudge against the jailor for the said action. That on 4/9/2012 the applicant had threatened the first informant by saying that he has committed mistake by transferring his associates in another barrack. That the applicant did not obey the orders of jailor and create nuisance. That no court had permitted him to have food from outside. However, he used to get food from home in the jail irrespective of the fact that there was no order from any court. That the complainant was assaulted by Sachin Garje and his associates Rajesh Kaikadi. Their

application seeking enlargement on bail have been rejected by this court vide order dated 2/7/2015 and 25/2/2016 respectively.

4 The learned Counsel for the applicant submits that the applicant is shown to be arrested in the present case only on the basis of the suspicion that in all probabilities he must have instigated person who assaulted him and therefore, the applicant deserves to be enlarged on bail.

5 The learned APP submits that the applicant has criminal antecedents and as far as 24 cases are registered against him for serious offences including decoity, abduction, etc..

6 The learned Counsel for the applicant submits that the applicant has been acquitted in almost all the cases and therefore, he deserves to be enlarged on bail.

7 The applicant is facing prosecution under the provisions of the MCOC Act. Criminal antecedents need to be considered. In the order dated 2nd July, 2015. This Court (Coram : Badar, J) on considering the fact that the present applicant heads a gang and is head of syndicate. Acquittal in the cases would also be for want of cogent and convincing evidence. Any hardened criminal would not leave sufficient evidence to be traced by the investigating agency and therefore, the acquittal cannot be taken into consideration. Upon being enlarged on bail, there can be no assurance that the applicant would lead a life of peace living citizen and would not be a danger to the society. Hence, the application being sans merits deserves to be rejected.

8 However, it is made clear that the observations made hereinabove are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

9 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)