

member of the gang. As per the case of the prosecution, this applicant was not involved in the case of mangalsutra snatching of Shardha Patil on 29th February, 2012. The applicant was shown arrested in this C.R. on 30th November, 2012 and since then he is in the prison. Hence, this Bail Application.

3. The learned counsel for the applicant/accused submitted that there is no evidence against the applicant/accused. He is not actually involved in the commission of offence. He is no way concerned of the mangalsutra snatching of complainant Shardha Patil. The only evidence with the prosecution is the confession statement of applicant/accused where he has stated that he is a member of Kiran Chettiyar gang, however, he denied that he was involved in this offence. The learned counsel submitted that by an order dated 30th July, 2014 this Court has granted bail to Taufiq Tejib Hussain, who is from other gang, but in the similar type of offence and the view was taken that a person it at all is only a member of the gang, he cannot be charged for the offence which he has not actually committed. The learned counsel submitted that SLP was preferred the State in this matter, which is dismissed on 4th April, 2016. The learned counsel relied on the judgment of Hon'ble Supreme Court in the case of **Arup Bhuyan vs. State of Assam, reported in (2011) 3 SCC 377** wherein it was held that mere membership of a banned organization will not make a person

criminal unless he resorts to violence or creates public disorder. Therefore, on the ground of parity, the learned counsel prays for bail.

4. Learned APP opposed the Application. She relies on the confession statement of the applicant/accused and submitted that the applicant is a member of the gang of Kirankumar Chettiya. He is charged under MCOC Act. There are 14 cases pending against the applicant/accused. Hence, the applicant is not to be granted bail.

5. Considered the FIR and the confession statement of the applicant/accused. The applicant is prosecuted in this C.R. only because he is a member of the gang. This Court has already taken a view that under MCOC Act, a person should actually commit offence for which crime is registered. Though he may be a member of the gang, there should be necessarily some nexus of the applicant/accused and the crime committed. I rely on the judgment in the case of **Mangesh Manik Kanchan & Ors. vs. State of Maharashtra in Bail Application Nos. 1696 and 1930 of 2014 decided on 13th July, 2015**. In view of this, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused be enlarged on bail on furnishing PR.

Bond in a sum of Rs.50,000/- with one or two sureties in the like amount;

- (iii) The applicant shall not tamper the evidence and witnesses.
- (iv) The applicant shall not indulge into any criminal activity especially the offence against the property, while on bail;
- (v) The applicant shall not abscond and furnish the telephone number and permanent address to the police along with address proof.
- (vi) The applicant shall make himself available and attend all Court dates;
- (vii) The applicant shall not jump the bail.
- (viii) The applicant shall not leave India without the prior permission of the Court.
- (ix) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. The Application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)