

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

CRIMINAL WRIT PETITION NO.4251 OF 2016

Pawan Shivaji Katkade

.... Petitioner

versus

State of Maharashtra & Ors.

... Respondents

Ms.Anita Agarwal, Advocate a/w Sham Walve, Advocate i/b.
Mr.Swapnil V. Walve, Advocate for the Petitioner.

Mrs.Anamika Malhotra, APP for the State/Respondent.

CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 08th DECEMBER, 2016.

P.C. :

1. Not on board. Upon mentioning, taken on board.

2. Both the learned counsel present.

3. In this writ petition, the petitioner, who is the original accused, seeks order of issuance of appropriate writ giving directions to the learned Sessions Judge to hear the bail application and also prays that the order dated 01/12/2016 passed in Appeal No.1410/16 be quashed and set aside. The present petitioner was arrested in August 2016 and has moved application before the Sessions Court, which is not heard. It is submitted that the petitioner is prosecuted for the offence of murder. However,

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accused Nos.1 to 8 are directly involved and petitioner is the accused No.19, who has no role. She further submitted that the prayer was made by the original complainant to apply MCOC Act against all the accused. However, Additional Director General of Police (L & O), Maharashtra State, has given an opinion that there is no sufficient evidence to grant sanction of MCOC Act. The original complainant tried to seek orders from the Sessions Court in respect of invoking MCOC Act to the police, which is rejected by the learned Sessions Judge. The original complainant therefore made a statement before the Sessions Court that they would be filing petition under Article 226 of the Constitution of India for the said relief and therefore his bail is not heard and kept pending.

4. The learned prosecutor submitted to the order of the Court.

5. In view of these facts, petition is allowed.

6. Rule is made absolute with the direction that the learned Sessions Judge to hear the bail application at the earliest.

7. Parties to act on authenticated copy of this order.

(MRIDULA BHATKAR, J.)