

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

CRIMINAL APPLICATION NO.101 OF 2017

Bhimrao s/o Baburao Gaike,
Age 30 years, Occu.Agri.,
R/o Rajapur, Taluka Gevrai,
District Beed

..Applicant

Versus

The State of Maharashtra,
through Police Inspector
Talwada Police Station,
Taluka Gevrai, Dist. Beed

..Respondent

Mr S.A. Gaikwad, Advocate for applicant
Mr R.V. Dasalkar, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 6th February 2017

PER COURT

1. The applicant is seeking regular bail in C.R. No.91/2012, registered at Talwada Police Station, District Beed, for the offences punishable under Section 395, 397 of the Indian Penal Code and under Sections 3(1) (ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act (hereinafter referred to as "M.C.O.C. Act for brevity),

2. Learned Counsel for the applicant Mr Gaikwad submits that the provisions of M.C.O.C. Act are not invoked against the applicant. As such, according to him, the applicant would be tried for offence punishable under the provisions of Indian Penal Code, which position is not disputed by the learned Addl. Public Prosecutor.

3. Mr Gaikwad submits that except stale offence of 2004, there are no criminal antecedents against the applicant and in the present crime, the applicant is behind bars since more than two years. According to him, the applicant be ordered to be released on bail by putting to stringent conditions.

4. Learned Addl. Public Prosecutor opposed the application on the ground of criminal antecedents and based on the confessional statement of the co-accused recorded under the provisions of M.C.O.C. Act.

5. Having considered the submissions, it is to be noted that the applicant came to be arrested on 5th November 2014. Admittedly, the provisions of M.C.O.C. Act are not invoked against the applicant. Apart from above, it is required to be noted that a stale incident of 2004 being C.R. No.27/2004 is shown to be pending against him.

6. Having regard to the fact that the applicant is behind the bars almost more than two years, the investigation in the matter is already over and provisions of M.C.O.C. Act are not invoked against him, in my opinion, it will be appropriate to direct the release of the applicant on the following conditions:

(a) The applicant shall be released on bail in C.R. No.91/2012, registered at Talwada Police Station, District Beed, for the offences punishable under Section 395, 397 of the Indian Penal Code and under

Sections 3(1) (ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, upon executing P.R. bond of Rs.50,000/- with one or two sureties in the like amount;

(b) Two consecutive absence of the applicant before the learned Sessions Judge will give rise to the said Court to take out proceedings for cancellation of bail against the applicant.

(c) The applicant shall not influence the prosecution witnesses and shall not tamper with the prosecution evidence.

7. Criminal Application stands allowed accordingly.

(N.W. SAMBRE, J.)

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