

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

ANTICIPATORY BAIL APPLICATION NO.390 OF 2017

Ravindra Gorakhnath Nikam .. Applicant

Vs.

The State of Maharashtra .. Respondents

Mr. Niteen Pradhan i/by Ms.Shubhada Khot for the applicant.

Mr.S.R. Agarkar, Additional Public Prosecutor for respondent.

CORAM : T.V. NALAWADE, J.

DATE : 23rd August 2017

PC. :-

1. The application is filed for relief of bail in C.R. No.27 of 2016 registered with Koyna Nagar Police Station, Satara for the offences punishable under Section 392, 394, 397, 120B read with 34 of the Indian Penal Code and Section 3(25) of the Arms Act. Now charge sheet is filed under the provisions of MCOC Act and MCOC Case No.27 of 2016 is filed in the Court of Special Judge, Pune. Both the sides are heard.

2. Material collected against the applicant and others show that main accused, leader of gang is one Royal @ Roy. Many crimes are registered against this leader and there is allegation that the present applicant is a member of this gang and the gang is prepared for making money. Offences are registered under the provisions of Sections 379, 380, 395, 392 etc. of the Indian Penal Code and even under MCOC Act

against the leader. Similar offences against many members showing that they are acting as a gang. Thus in the past also, the provisions of MCOC Act were used against the leader and the said case is pending in Thane Court.

3. The incident in question in the present matter took place on 15th April 2016. The first informant is in the business of sale and purchase of sheep and goats. On 15th April 2016, he had collected cash of Rs.1.30 lakh from this business and with this amount, he was passing by bridge situated at Chiplun-Karad Road. At about 9.15 p.m., the present applicant and the members of the aforesaid gang came there in Scoda vehicle, they intercepted the informant and one of them asked about the cash amount which he was having. Then by using force, they snatched the cash from his person. The first informant did not know these persons but he saw them at the time of incident carefully and he mentioned the description in the First Information Report which was given almost immediately after incident. In the incident, one person had used revolver. There was scuffle of the first informant with one person and during scuffle, one bullet fell on the spot. During the course of investigation, the present applicant and others came to be arrested and test identification parade was held on 29th April 2016. The present applicant was identified by the first informant. Then supplementary statement came to be recorded.

4. After completion of the investigation, proposal was made for seeking permission to use the provisions of MCOC Act. The statements of the co-accused are recorded under this special enactment. One more crime was registered against the present applicant in the past

though it was for offence punishable under Section 302 read with 149 of the Indian Penal Code.

5. Learned counsel for the applicant submitted that the said offence of murder could not have been used for invoking the provisions of MCOC Act as the said offence was allegedly committed due to dispute over the agricultural land. Though apparently there was such dispute, the fact remains that material collected show that the present applicant was working as a member of the gang formed by the aforesaid leader and many offences of making monetary gain are committed by the members of this gang. Those offences are mentioned in the order made for using the provisions of MCOC Act.

6. Against the present applicant, there is sufficient material to make out a prima facie case for the aforesaid offences. He had collected the share in the aforesaid amount. He is identified by the first informant and the witness who was in the company of the first informant. There is more record and there are statements of co-accused.

7. Learned counsel for the applicant submitted that there are inconsistencies in the versions of the eye witnesses and they tried show that more persons were involved by making supplementary statements. This submission is not at all acceptable. Those alleged inconsistency cannot be considered at this stage. In the First Information Report itself, a specific role played by four persons is mentioned and the applicant is from those four persons. Thus whatever addition is there in the statements given by the witnesses is in respect of the other accused and not in

respect of the present applicant. In view of these circumstances, this Court holds that it is not possible to grant relief of bail. There is possibility of absconding of the present applicant. In the result, the application stands rejected.

T.V.NALAWADE, J.