

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 985 OF 2016

Vijay Bhanudas More

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Pranil Sonawane a/w Mr. Vinod Utekar Advocate for Applicant.
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 17th FEBRUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 24/07/2013 in crime no. 84 of 2012 registered at Kopari Police Station. Investigation is completed and charge-sheet is filed against the applicant for offence punishable under sections 143, 147, 148, 149, 307, 120 (B) of the Indian Penal Code and section 3 r/w 25 of the Indian Arms Act. Upon considering the gravity of the offence, investigating agency was of the opinion that this is an offence committed by an organisation crime and therefore, they had obtained sanction under the provisions of the Maharashtra Control of Organized Crime Act,

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1999 (Hereinafter referred as 'MCOCA').. Applicant was shown to be arrested on 20/11/2012 under MCOCA.

2) The learned counsel for the applicant at the outset submits that co-accused Manish Salve has been enlarged on bail by this Court (Coram : Mrs. Mridula Bhatkar, J.) on 30/03/2016 and hence, the learned counsel for the applicant submits that by virtue of doctrine of parity, applicant also deserves to be enlarged on bail.

3) It is the case of the prosecution that on 13/07/2012, Pravin Kanade lodged a report at the police station alleging therein that on that day, in the evening he was in his office chit-chatting with his friends. They suddenly heard a firing of crackers and therefore, rushed out of the office. They saw Rajesh Ghadge had fallen on the ground. He had seen one unidentified person armed with revolver. There was another person also who was armed with revolver who had shot at Rajesh Ghadge. He had given the description of the said person. He has further alleged that the said two unidentified persons were accompanied by some more persons who had threatened the first informant of dire consequences. He had seen 4 persons fleeing from the spot. They were creating terror in the said area and therefore, all people in the surrounding

area had gone indoors. When the injured was being taken to the hospital, he disclosed to his friends that the person who fired at him was Ramesh Salve, the person who had used the chopper was one Raju Mahadik. He had also informed that he has identified the person threatening him at the point of revolver.

4) In the course of investigation, statement of all the witnesses disclosed that this was act committed by an organisation headed by Ramesh Salve and that the organisation further works for gangster Chota Rajan. It had also transpired that there were serious offences registered against the accused persons. In the course of investigation, confessional statement of the accused were recorded. The confessional statement of the present applicant was also recorded and it clearly indicates his involvement in causing injury to Rajesh Ghadge. He has narrated the entire incident. It is also seen that the applicant herein was driving the rickshaw in which the accused had reached the spot. After the incident, he was to take accused along with him, however, the rickshaw had failed and therefore he had fled from the spot.

5) Taking into consideration the fact that there is confessional statement of the present applicant which is admissible under the provisions of MCOCA, it

would be difficult to record a finding under section 21 (4) of MCOCA. Papers of investigation indicate that the present applicant is member of the organisation working for gangster Chota Rajan and therefore does not deserve to be enlarged on bail.

6) As far as the parity is concerned, perused the order dated 30/03/2016, the case of the present applicant can be distinguished mainly on the ground that there is confessional statement of the accused/applicant in the present case which is admissible evidence. There is no such observations in the order granting bail to Manish Salve and hence, applicant does not deserve to be enlarged on bail by virtue of doctrine of parity also.

7) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)