

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

CRIMINAL BAIL APPLICATION NO. 1825 OF 2016

Juber Mustaq Mujawar ..Applicant

v/s.

The State of Maharashtra ..Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 1465 OF 2016**

Alamgir G. Patel ..Applicant

v/s.

The State of Maharashtra ..Respondent

Mr.A.P.Mundargi, Sr. Counsel a/w. Umesh Mankapure for the Applicants

Mr. Vinod Chate, APP for the Respondent-State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 18TH JANUARY, 2017
IN CHAMBER**

P.C.

1. These applications for bail are filed by the aforesaid applicants, arrested and chargesheet in MCOC Case No.76 of 2016.

2. Heard learned Senior Counsel Shri Mundargi for the applicants, and Shri Chate, learned APP for the State. I have perused the record and considered the submissions advanced by the learned Counsel for the applicants.

3. The facts relevant to decide these applications are as under:

Payal Mane had lodged a FIR dated 10th November, 2015 at Sanjay Nagar police station, District Sangli, alleging that her husband-Gorakhnath who had left the house on 9th November, 2015 at about 11.30 p.m. and that he had not returned home. She had stated that on 10th November, 2015 at about 1.00 a.m. She was informed that her husband's footwear was lying near the road in front of Kamal Joshi School. She alleged that the co-accused Mohammad Nadaf had earlier threatened her husband. She, therefore, suspected that said Mohammad Nadaf had abducted her husband.

4. Pursuant to the said complaint, Crime No.116 of 2015 was registered at Sanjay Nagar Police Station, District Sangli for the offence under Section 364A r/w. 34 of the Indian Penal Code.

The body of Gorakhnath was found and hence offences under Section 302, 312, 364, 118 r/w. 34 of Indian Penal Code were added. Mohammad Nadaf, who is stated to be head of the gang and the main accused in the crime, was arrested and the provisions of MCOC Act were added. Chargesheet was filed against said Mohammad Nadaf and others after seeking requisite permission under the MCOC Act.

5. Learned Sr. Counsel Shri Mundargi and learned Counsel Shri Mankapure have submitted that the applicants were not in any manner involved in committing murder of Gorakhnath. There is no material to indicate that they are /were the members of the Commercial Syndicate headed by Mohammad Nadaf. The only allegation against the applicants is that the accused no.1 was seen using their motorcycles several days after the incident. The learned Counsels for the applicants have submitted that even if the said allegations are taken as true, the same are not sufficient to prima facie link them with the offence. They have submitted that the applicant Juber Mujawar is in custody since 29.11.2015 and Alamgir

Ptel is in custody since 12.11.2015 and that there being no prima facie material to show their involvement in the crime, they be released on bail.

6. The learned APP has submitted that after the incident the main accused was seen using the motorcycle of the applicants. He has further submitted that the applicants were in contact with the main accused. He has submitted that the material on record prima facie reveals that the applicants had aided and assisted the main accused in absconding. He has submitted that the offence is of serious nature and released the applicants on bond will jeopardise the trial.

7. It is pertinent to note that the alleged incident had occurred during the intervening night of 9th November, 2015 and 10th November, 2015. The records do not prim facie indicate that the applicants herein were involved in causing death of Gorakhnath Mane or that they were the members of the crime syndicate headed by Mohammad Nadaf. The only allegation against them is that said Mohammad Nadaf was seen using their motorcycle several days after

the incident. There is no prima facie material on record to indicate that these applicants were seen along with the main accused Mohammad Nadaf on the day he allegedly used their motor cycle. Apart from the said material and some random calls made to the main accused after the incident, there is no prima facie material to link the applicants with the crime.

8. Considering the above facts and also considering the fact that the chargesheet has been filed, and the presence of the applicants is no longer required in the custody, I pass the following order:-

- i) The applications are allowed.
- ii) The applicants are ordered to be released on bail on the applicants furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand Only) each, with two solvent sureties in the like amount, to the satisfaction of the Special Court.
- iii) The applicants shall not leave the jurisdiction of Sanjay Nagar Police Station, Sangli District, except for attending the trial at the Special Court at Pune, without prior permission of the Special Judge who is trying the MCOC Case No.76 of 2016.

- iv) The applicants are directed to report to the Senior P.I. of Sangli Police Station on every first Monday of the month, till conclusion of the trial.
- v) The applicants shall not interfere with the witnesses or the evidence, in any manner.

(ANUJA PRABHUDESSAI, J.)