

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

**CRIMINAL APPLICATION NO.1400 OF 2015
IN
CRIMINAL APPEAL NO.1066 OF 2012**

Shri. Sunil Sadashiv Ghate

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. A. P. Mundargi, Senior Advocate a/w Mr. Rahul Arote and Mr. D. D. Ghadge i/by D. D. Ghadge & Associates for the Applicant.

Mrs. S. V. Sonawane, APP for the Respondent – State.

**CORAM : B. R. GAVAI &
B. P. COLABAWALLA, JJ.
DATE : 20th DECEMBER, 2017**

P.C.

1] This is an application for grant of bail during the pendency of the Appeal.

2] The Applicant has been convicted for an offence punishable under Sections 3(1)(ii) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (“MCOC Act” for short). The present Applicant alongwith other accused were tried for an offence punishable under Section 302 r/w Section 34 of the Indian Penal Code (“IPC” for

short). In so far as the present Applicant is concerned, conviction is only for the offences punishable under Sections 3(1)(ii) and 3(4) of the MCOC Act on the ground that the Applicant was collecting money in the crime syndicate. It is the case of prosecution that the Applicant was a member of the crime syndicate, headed by Arun Gawali and used to collect extortion money under his directions.

3] The application is vehemently opposed by the learned APP on the ground that the earlier application filed by the present Applicant has been rejected, whereas the applications of the other accused are also rejected.

4] We have perused the order passed by the Division Bench of this Court dated 24th April 2013. In the said order itself, the Division Bench of this Court has observed that if the Appeal is not heard within a period of one year the Applicant would be entitled to renew his request. It could thus be seen that almost period of four years and nine months has lapsed from the date on which the application was rejected by this Court. The Applicant basically relies on the statement of the co-accused Suresh and PW-6 Arunkumar Singh, who was a cable operator.

5] As held by the Apex Court in Niranjan Singh and another.

Vs. Prabhakar Rajaram Kharote and others reported in **(1980) 2 SCC 559** detailed elaboration of evidence at this stage would not be in the interest of justice. Even if the statement of the co-accused and the evidence of PW-6 Arunkumar Singh is taken at its face value, the allegations that can be said to be proved would be that the Applicant was collecting money for the crime syndicate. The Applicant has not been convicted for the main offence punishable under Section 302 of the IPC. The Applicant surrendered to the custody on 24th September 2008. It could further be seen that during the trial itself the learned Special Judge vide order dated 20th February 2009 after considering the entire record found that the present Applicant was entitled to be released on bail. The Applicant thereafter was taken custody on 31st August 2012. Perusal of the certificate issued by the Additional Senior Jailor, Yerwada would reveal that the Applicant has undergone actual sentence of five years, three months and one day and the sentence undergone by him after giving him such remissions etc. is seven years, five months and six days. It could thus be seen that the Applicant has already undergone sentence of almost 70% of the period.

6] The application is therefore allowed. The Applicant is directed to be released on bail in the sum of Rs.1,00,000/- with one or two sureties in the like amount, on the further condition that the

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Applicant deposits the fine amount. The Applicant shall report to the DCB, CID Unit-3 on every Monday and Thursday between 10.00 a.m. to 12.00 p.m.

[B. P. COLABAWALLA, J.]

[B. R. GAVAI, J.]