

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

BAIL APPLICATION NO. 2741 OF 2017

Mr. Mauli Mahaling Palse	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Ashok P. Mundargi, senior counsel with Mr. Satyam Nimbalkar for the Applicant.

Mrs. J.S. Lohokare, APP for the Respondent -State.

Mr. Yashwant Ashok Kale, Sub-Divisional Police Officer, Dahiwadi Camp, Vaduj, District-Satara, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 8th OCTOBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who has been arrested in Crime No.53 of 2016 registered with Vaduj Police Station for the offences punishable under Sections 394 and 397 r/w. 34 of the Indian Penal Code and Sections 27, 3(23), 3(1) and 4 of the Arms Act and Sections 3(1), 3(2) and 3(4) of the M.C.O.C. Act.

2. Heard Mr. Ashok Mundargi, the learned senior counsel for the Applicant and Mrs. J.S. Lohokare, the learned APP for the Respondent-State. I have perused the records and considered the

submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Mahavir Modi. The FIR prima facie reveals that on 6.3.2016 the first informant and his two other employees were proceeding towards Vaduj village by vehicle No.MH 11 BL 6663 belonging to D.K. Trading Company to supply oil and groundnut seeds. It is alleged that upon supplying certain products to retailers they had collected cash of Rs.2,40,200/-. The first informant had kept cash of Rs.2,25,000/- in his bag and Rs.15,000/- in his pocket. They had stopped the vehicle at Satewadi to supply products to one Sanjay Bote. It is alleged that when the first informant got off the pickup truck, he saw one motorcycle parked behind the pickup truck with four unknown persons standing near the said motorcycle. When the first informant told the said persons to remove the said motorcycle from the way, one of the persons from the group pointed a pistol at him and the other three assaulted him. It is alleged that the said four persons had tried to snatch away the bag containing Rs.2,25,000/- however, the first informant held it tight and did not allow them to snatch it. The first informant has stated that one of the boys had removed cash of Rs.15,200/- from his pocket. The first informant rescued himself from

the clutches of the four persons and ran towards the house of Sanjay Bote.

4. The statement of the driver- Rajendra Nidan also prima facie indicates that the four unknown persons had pointed a pistol at the complainant and attempted to snatch the bag. His statement further states that one of the boys, had snatched away cash of Rs.15,200/- which was with the first informant. This witness states that after the first informant ran away to the house of Sanjay Bote, the four persons entered the cabin of the pickup truck and assaulted him. They took the vehicle upto a community centre. They also demanded money from him and when he told them that he had no money, they tried to unload the goods, which were in the said pickup truck. It is alleged that said four persons had taken some of the goods from the said pickup truck.

5. The statement of Sanjay Atpade, worker of the said Company also prima facie corroborates the statement of the first informant and the driver. The records prima facie reveal that ID parade was held and the complainant, driver and the cleaner have identified the persons involved in the said incident. There is, thus,

prima facie material to show that the Applicant is involved in the said crime. It is to be noted that the pistol, which was allegedly pointed out at the first informant is stated to be a fake pistol. There is no prima facie material to show that the Applicant and others had attempted to cause grievous hurt to the first informant and other witnesses viz. the driver and the cleaner. Hence, prima facie, the provisions under Section 397 of the IPC would not be applicable.

6. The Applicants are also alleged to have committed offence under the M.C.O.C. Act. The records reveal that apart from the present crime another crime bearing C.R. No. 54 of 2016 has been registered against the Applicant. The said crime was registered after registration of the subject crime. The learned APP concedes that no crime was registered against the Applicant prior to registration of the subject crime. The only material relied upon by the prosecution for invoking provisions of the MCOC is the statement of the co-accused. Said confessional statement on the face of it is exculpatory. The learned APP, under instructions of the Investigation Officer concedes that apart from this exculpatory statement there is no other material to show that the Applicant is the member of the gang led by Sagar Bhilare, or that he is a member of a crime syndicate.

7. Thus, there is no prima facie material as against this Applicant to invoke provisions under the MCOC Act. The Applicant is in custody since 28.3.2016. It is reported that several other old cases are pending before the MCOC Court and the present case is not likely to come up for hearing for the next couple of years.

8. Mr. Mundargi, the learned senior counsel for the Applicant, under instructions, makes a statement that the Applicant shall not enter Satara District till conclusion of the trial. Statement is accepted.

9. Considering all the above facts and circumstances, the application is allowed on following terms and conditions:

(i) The Applicant, who has been arrested in Crime No.53 of 2016 registered with Vaduj Police Station, District-Satara shall be released on bail on furnishing bail bonds of Rs.1,00,000/- with one or two solvent sureties in the like amount.

(ii) The Applicant shall report to the Incharge of Sangola Police Station on first Monday of every month and on 3rd Monday of every month to LCB office, Pune

(Rural) until further orders.

(iii) The Applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the Investigation Officer.

(iv) The Applicant shall not change his residential address without prior intimation to the concerned Investigation Officer.

(SMT. ANUJA PRABHUDESSAI, J.)