

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

CRIMINAL BAIL APPLICATION NO. 592 OF 2016

Puranshankar Rajnarayan Mishra	... Applicant
Versus	
The State of Maharashtra	... Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 2204 OF 2016**

Bhushan Ramchandra Satham	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Ashok Mundargi, Senior Advocate i/b Mr. S. V. More for the Applicant in BA No.592 of 2016.

Mr. Aabad Ponda i/b Shailesh Kharat for Applicant in BA No.2204 of 2016.

Ms. A. A. Takalkar, APP for the Statea.

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CORAM : PRAKASH D. NAIK, J.

DATE : 23rd OCTOBER, 2018.

P. C.:

1. The applicants in both these applications are seeking bail in MCOC Special Case No. 7/2015 pending before the Special MCOC Court, Sessions Court, Mumbai arising out of C.R. No.113/2014 initiated by DCB CID-AEC and C.R. No.376/2014 registered with Dadar Police Station, Mumbai.

2. The offences were initially registered under Section 387 read with 34 of IPC and subsequently Section 420, 465, 468, 471, 120(B) of IPC and Sections 3(1)(ii), 3(2) and 3(4) of MCOC Act, 1999 were invoked.

3. The case of the prosecution is that the complainant is a Site Assistant in a builder's office. The construction was in progress. On 26/11/2014 while the complainant was present at the construction site he received a phone call on his mobile. The caller identified himself as Sunil and told the complainant that his boss Guru Satam is going to call him. Thereafter, call was received by the complainant on his mobile phone and caller identified himself as Guru Satam and instructed him give for extortion money. The complainant thereafter received a call from earlier caller Sunil from PCO number and inquired whether he has received a call from his boss and whether he had heard the name of Guru Satam. He told him to search on google and he will realise who is Guru Satam. He demanded extortion money and threatened that if he fails to pay extortion money, he should keep his funeral material and ready to die. The complainant was afraid and informed his employer about the threat call. It was realised

that between 09/11/2014 to 22/12/2014 the employer had received overseas calls on his mobile phone, but he had not responded to them. He also realised that Guru Satam is in overseas countries and giving extortion calls and his local associate is calling for extortion amount. Hence, the complaint was lodged with the Police and FIR was registered on 05/12/2014. The prosecution case is that the complainant had recorded conversation between him and accused in his mobile phone and submitted the same to the Police. He also produced printout of threat sms received by him. On 05/12/2014 accused No.1 Narhari Narayan Satam @ Pankaj was caught red handed while accepting money. He was arrested on the spot and two mobile phones and SIM cards, a chit with contact numbers of severan victims were recovered. It is alleged that the applicant in Bail Application No. 592 of 2016 gave mobile number of the complainant to gang leader Guru Satam and also given it to accused No.1. The said applicant was arrested on 15/01/2015.

4. During the course of investigation, statement of accused No.2 was recorded under Section 18 of MCOC Act, in which he has confessed that he was a member of Gutu Satam

gang and he collected extortion money from various victims and same amount was given to the applicant in Bail Application No. 2204 of 2016 who is son of gang leader Guru Satam. The said applicant was arrested on 11/02/2015 and two mobile hand sets were recovered from him.

5. Learned Senior Counsel Mr. Ashok Mundargi appearing for the applicant in Bail Application No.592 of 2016 submitted that there is no evidence against the said accused. There is no evidence to show that the applicant is member of organised crime indicate and in the absence of any evidence the provisions of MCOC ought not to have been invoked against the applicant/accused. He is in custody from the date of arrest and except confessional statement there is no evidence against him. It is submitted that the application dated 16/01/2015 mentions that the inquiry was made with the arrested accused, in which it is stated that the telephone contact numbers of complainant and other builders and businessman provided by a person name Mr. Bunty, whose details are not available. The applicant is not person named Bunty. It is submitted that the applicant is not concerned with the gang of GuruSatam and he has not committed any crime.

He is falsely implicated in the case. The applicant had retracted the confessional statement. There is no evidence to show that the applicant is involved in commission of crime with the alleged gangster.

6. Mr. Ponda, learned Advocate for the applicant in Bail Application No. 2204 of 2016 submitted that the said applicant had not played any role in this crime. He is not concerned with the alleged extortion. There are no witnesses showing his involvement in the crime. There is no circumstantial evidence against the applicant. There are no cases pending against him and the only case which was registered has resulted in acquittal. Unless there is clearcut admission of crime confession cannot be relied upon. It is submitted that there is nothing on record to show that the applicant has given threats to the complainant or his employer. No offence under Section 387 of IPC is made out against the applicant. There is no evidence to establish charge under the provisions of MCOC Act. The sentencing authority has failed to apply his mind regarding applicability of the MCOC Act. The approval and the sanction orders are contrary to law. The applicant is not conspirator in the crime. The confession of

accused No.2 do not implicate the applicant. He is in custody from the date of arrest. The statement of witnesses on which prosecution relying has nothing to do with the present case. Such statement cannot be treated as evidence in this case. The incident described by witnesses has no relations with the crime and none of these witnesses have filed any complaint. Reliance placed on the decision in the case of *State of Maharashtra Vs. Jagan Gagensingh Nepali @ Jagya and another – 2011(5) Mh.L.J. 386* and another decision in the case of *Pakala Narayana Swami Vs. Emperor – (1939) 41 BOMLR 428*. The investigation is over and charge-sheet is filed and therefore, nothing is required to be recovered from the record. There is no evidence of CDR involving the applicant. The applicant has not called accused No.2 as stated in the confession. The confession of the accused is moreover like of exculpatory. The accused No.2 has excluded himself in the confession.

7. Learned APP submitted that there is sufficient evidence on both the accused. The applicants are members of crimes indicate. It is submitted that the complainant had recorded conversation between him and the accused in his mobile phone

and submitted the Compact Disc (CD) of conversation to the Police. He has also produced printout of threats through sms which were received by him on 05/12/2014. Accused No.1 was apprehended while accepting the money and SIM cards were recovered from him. The applicant Puranshankar Rajnarayan Mishra is involved in the crime. He gave mobile number of complainant to gang leader Guru Satam and accused No.1. During the course of investigation mobile hand sets with SIM card of Reliance company was seized from the said accused. The said cell phone was used to talk gang leader Guru Satam. The SIM card was in the name of another person which was used for the crime without his knowledge. Accused No.1 gave threats to several persons and even wanted accused also issued threats of extortion. The confession of accused No.2 was recorded under Section 18 of MCOC Act before Deputy Commissioner of Police, Zone-X, Mumbai, whereas he has confessed that he is member of Guru Satam Gang and organised crime indicate and he collected extortion money from various victims and the amount was given to accused No.3 (applicant in Bail Application No. 2204 of 2016). Mobile hand sets were recovered from accused No.3. The

applicants are members of organised crime indicate. Two cases were registered against the applicant in Bail Application No. 592 of 2016.

8. Per contra, learned Counsel for the applicant submitted that both the cases have resulted in acquittal. The confessional statement of accused No.2 shows the involvement of accused No.3 (applicant in Bail Application No.2204 of 2016). Accused No.3 was arrested and two mobile hand sets were recovered from him. According to prosecution the accused No.3 is the member of organised crime indicate and he has received extortion money from accused No.2 on behalf of gang leader Guru Satam. He has collected extortion amount from various victims from Mumbai and Thane. He was in touch with arrested accused No.2 through seized mobile phones. Accused No.3 has collected extortion amount of witnesses to whom gangster has threatened for extortion. The said applicant has threatened witnesses for extortion. Statement of victims are recorded under Section 164 of Cr.P.C. The case C.R.No.149 of 2006 was registered against accused No.3 under Section 387, 34 of IPC read with Section 3(1) (ii), 3(2), 3(4) of MCOC Act.

9. The primary contentions of the applicant is that there is no evidence to show that they are members of gang headed by gang leader Guru Satam. It is contended that the statements relied upon by the prosecution has nothing to do with the present complaint. There is no evidence about involvement of the applicants in the present case and the question of complying the provisions of MCOC does not arise. However, as pointed out by the learned APP, there is evidence in the form of several statements with regards involvement of the applicants in the crime. The confessional statement of accused No.2 is recorded during the course of investigation. The involvement of accused No.2 is implicit from confessional statement recorded under Section 18 of MCOC Act. The statement recorded during the course of investigation indicate that the applicants are involved in the crime. It is the case of prosecution that accused No.3 was in constant touch with accused No.2 through seized mobile phones. He has collected extortion amount of witnesses to whom gangster Guru Satam has threatened for extortion. The statement of witnesses are recorded under Section 164 of Cr.P.C. One of the witness has also produced evidence of CCTV footage with regard

to visit of the accused No.3 in his office and threats issued to him. During the course of investigation mobile hand set with SIM card of Reliance company was seized from accused No.2. In the statement recorded under Section 18 of the MCOC Act, the said accused has stated that he is member of Guru Satam gang and collected extortion of money from various victims and the amount was given to accused No.3. It is the case of prosecution that the applicant/accused No.2 has given contact mobile number of complainant to accused No.1 and gang of leader Guru Satam. The investigation also indicate that accused No.2 has collected extortion amount from various victims. The decisions relied upon by the learned Counsel for the applicant deals with the settled principles of law. However, in the light of nature of evidence against the applicants, no case for grant of bail is made out and hence I pass the following order :

ORDER

Criminal Bail Application No. 592 of 2016 and Criminal Bail Application No. 2204 of 2016 are rejected and stand disposed off.

(PRAKASH D. NAIK, J.)