

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

BAIL APPLICATION NO. 1170 OF 2016

Prakash Damu Kadav

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. S.A. Shaikh for the Applicant.

Mr. Ameet Palkar, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 24th FEBRUARY, 2018

P.C.:

. This is an application under Section 439 of Cr.PC. for bail in C.R. No. I-129 of 2013 dated 02.07.2013 registered with Wada Police Station, District Palghar under Sections 397 and 427 of the Indian Penal Code, under Sections 25(1)(3) of the Indian Arms Act and under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999.

2 Heard the learned Counsel for the Applicant and the learned APP. Perused the charge-sheet.

It is the prosecution case that the Applicant along with other accused persons committed dacoity on a jewellers shop at Taluka Wada, District Palghar on 02.07.2013 between about 7.00 to 9.00 pm. During the course of investigation, it is revealed that the said crime is committed by an Organised

Crime Syndicate and therefore, the provisions of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter will be referred as “**MCOC Act**”) are applied to the said crime and after completion of investigation, the police have submitted charge-sheet.

3 The record indicates that statement of the Applicant as contemplated under Section 18 of the MCOC Act has been recorded by the Competent Authority under the MCOC Act on 26.11.2013 wherein, the Applicant has admitted his participation in the said crime and activities of the syndicate.

4 The learned Counsel for the Applicant submitted that, the Applicant when produced before the concerned Magistrate immediately on 27.11.2013 has retracted the said confession and therefore, there is no other evidence on record to connect the Applicant with the said crime. He therefore, prayed that the Applicant may be released on bail.

5 The provisions of Section 18 of the MCOC Act are para materia with Section 15 of the Terrorist and Disruptive Activities (Prevention) Act. At this stage a useful reference can be made to the decision of the Supreme Court in the case of *State of Maharashtra V/s. Bharat Chaganlal Raghani & Ors. reported in 2011 ALL MR (Cri) 1903*. The Supreme Court while analysing provisions of Section 15 of Terrorist and Disruptive Activities (Prevention) Act has held that, there is no denial of the fact that the judicial confessions made are usually retracted. Retracted confessions are good confessions if held to have been made voluntarily

and in accordance with the provision of law. Corroboration to the confessional statements is not rule of law but a rule of prudence. Whether in a given case the corroboration is sufficient would depend upon the facts and circumstance of the case. In order to sustain a conviction on the basis of a confessional statement, it is sufficient that there is its general corroboration.

6 After perusing the confession statement of the Applicant, prima facie it inspires confidence in the mind of this Court. Apart from the aforestated fact, it further appears from record that the Applicant is also an accused in two other crimes and when was on bail in those crimes, has indulged into the commission of the present crime. In view thereof, it is difficult for this Court to record a finding under Section 21(4) of the MCOC Act, that if the Applicant is released on bail, he will not commit any other offence.

7 The record indicates that the Applicant is arrested on 10.08.2013 and since then he is in jail. In view thereof, the learned Special Judge seized of MCOC Case No. 2 of 2014 is hereby directed to expedite the hearing of the said case and make an endeavour to conclude the same within a period of one year from the date of the receipt of the present order .

8 Application is dismissed in aforesaid terms.

(A.S.GADKARI, J.)