

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

BAIL APPLICATION NO.1445 OF 2018

Magan alias Madan Ratan Pawar Applicant

Vs.

The State of Maharashtra & Ors. Respondents

Mr. Mandar Mahesh Goswami for the Applicant.

Mr. S.S. Pednekar, APP for the State.

Coram : *Smt. Sadhana S. Jadhav, J.*

Date : 30th July, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 29th November 2015 in Crime No.19 of 2015, registered at Wadivarhe Police Station, Nashik, for the offences punishable under Sections 3(1)(i)(ii), 3(2), 3(4) and 3(5) of the Maharashtra Control of Organised Crime Act, 1999. The investigation is completed and the charge-sheet is filed.

3 It is the case of the prosecution that the applicant herein was working as driver on the truck of Sampat Ghorpade, who happens to be the original accused no. 1 in the present case. That Sampat Namdeo Ghorpade had been enlarged on bail by this Court vide order dated 21st February 2018. Prior to that the co-accused Arun Namdeo Ghorpade and others were enlarged on bail by this Court vide order dated 22nd December 2016. The said order granting bail in favour of Arun Ghorpade has been upheld by the Hon'ble Apex Court.

4 Learned counsel for the applicant vehemently submits that in fact the principal accused have been enlarged on bail and therefore further incarceration of the applicant, who was only earning his livelihood, working as driver with Sampat Ghorpade would be unwarranted. It is not necessary for the prosecution that the applicant herein had committed theft of the food-grains either from Food Corporation of India nor he had threatened the retail shop owners to part with the grains, which were to be distributed under

the public distribution system by the Zilla Parishad. The gunny bags, which were taken from private fair price shop owners was transferred in the other bags through porters and the present applicant was in no way responsible for the same.

5 This Court had enlarged accused Sanjay Madhukar Dhurjad on bail vide order dated 22nd December 2016. Sanjay was working as a driver with Mantri Transport and it was alleged that he was transporting food-grains from the government godown to private godown at the behest of the co-accused.

6 It is informed that since the final report under Section 173 of Cr.PC. was not filed, the principal accused i.e. the partners of Mantri Transport as well as Sanjay Madhukar Dhurjad have been released on bail under Section 167(2) of Cr.P.C. In view of this further incarceration of the present applicant would be unwarranted and unjustified. Hence, the applicant deserves grant of bail.

7 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial.

Hence, the order :

ORDER

- i) The application is allowed.
- ii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

(*Smt. Sadhana S. Jadhav, J*)