

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

**CRIMINAL BAIL APPLICATION NO. 1535 OF 2018**

Ponnuswamy Tangaswamy Nadar ... Applicant  
Vs.  
The State of Maharashtra ... Respondent

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Mr. S. Kanagaraj S. Siddarthan for applicant  
Mr. A.R. Kapadnis, APP for the Respondent-State

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**CORAM : PRAKASH D. NAIK, J.  
DATE : 15<sup>th</sup> OCTOBER, 2018.**

**P.C.**

1. The applicant is seeking bail in connection with C.R. No. 169 of 2016 registered with NRI Sagari Police Station. The FIR was registered on 6<sup>th</sup> August, 2016 for offences under Section 395, 397, 120B, 411, 414 of Indian Penal Code.
2. The prosecution case is that on 6<sup>th</sup> August, 2016 at about 2.45 p.m., five unknown persons entered into the office of complainant. They were armed with sickle and pistol. They threatened the complainant and committed robbery of gold ornaments weighing about 20 kgs as well as cash of Rs.9,50,000/-. The value of the gold was allegedly about Rs.60 Lakhs. During the course of investigation about five persons were arrested. In pursuant to that proposal was submitted for applying the

provisions of MCOC Act. Sanction was granted against the arrested accused for prosecution under Sections 3(1)(ii), 3(2), 3(4) of MCOC Act. The applicant was arrested after a period of about one year from the date of registration of the offence. The papers were placed before the sanctioning authority for seeking sanction under section 23(2) of MCOC Act. However, the sanctioning authority found that there is no sufficient evidence to prosecute the applicant for commission of offence being member of organized syndicate and therefore due to insufficient evidence the applicant was not found to be fit for prosecution under the provisions of MCOC Act. Chargesheet was filed against the applicant for the offences under the Indian Penal Code.

3. The applicant preferred an application for bail before the Court of Sessions. The said application was rejected by order dated 27<sup>th</sup> March, 2018.

4. Learned advocate for the applicant submitted that there is no evidence against the applicant. The applicant is arrested after one year from the date of registration of FIR. Except suspicion there is no material to show involvement of the applicant in the present crime. The applicant has not been attributed any role of being the person who had committed the alleged crime. He was not present

at the scene of offence. There is no identification parade. He has not been identified by any witness. There are no criminal antecedents against the applicant. It is further submitted that the provisions of MCOC Act were not applied to the applicant for want of evidence. The applicant is the resident of Tamil Nadu. The CCTV footage do not disclose the presence of the applicant at the scene of offence. There is no other cogent evidence to show the involvement of the applicant in the crime.

5. Learned APP submitted that the involvement of the applicant is established during the course of investigation. The applicant was not available and hence arrested after a period of about one year. The prosecution case is that the gold weighing about 100 grams was handed over to the applicant. It is submitted that the confessional statement of the co-accused recorded under the provisions of the MCOC Act shows involvement of the applicant. The crime is very serious. The gold worth Rs.60 Lakhs and cash of Rs.9,50,000/- was robbed by the accused who had conspired to commit the said offence.

6. I have perused the evidence on record. The incident had occurred 6<sup>th</sup> August, 2016. The case of the prosecution is that five unknown persons had entered into the office of the complainant

and committed dacoity. It is pertinent to note that there is no evidence to show the presence of the applicant at the scene of offence. He has not been identified by any witness as a person who has participated in the crime. Except the statement of accused stating that gold weighing about 100 gram was handed over to the applicant by accused No.8 there is no cogent evidence to establish the involvement of the applicant in the crime. There is no other corroborative evidence. The co-accused from whom gold weighing about Rs. 3,11,000/- was recovered has been granted bail by this Court. Although, sanctioned was sought to prosecute the applicant for the offences under the MCOC Act, the sanctioning authority refused to grant of sanction for want of evidence to prosecute the applicant for the said offences. Taking into consideration for the aforesaid circumstances, the case for grant of bail is made out. Hence, I pass the following order.

### **ORDER**

- i. Bail Application is allowed;
- ii. Applicant is directed to be released on bail in C.R. No. 169 of 2016 registered with NRI Sagari Police Station on furnishing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

- iii. Applicant shall report concerned Police Station once in a month on first Saturday between 10 a.m to 12 noon till conclusion of trial;
- iv. Applicant shall furnish the details of his residential address to the Investigating Officer after he is released on bail;
- v. Applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- vi. Bail Application stands disposed off.

Digitally signed  
by Sachidanand  
Kuttan Nair  
Date:  
2018.11.13  
13:47:29 +0530

**( PRAKASH D. NAIK, J. )**