

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

**BAIL APPLICATION NO.1517 OF 2017**

Mayur Ashok Sanas .... Applicant  
Vs.  
The State of Maharashtra .... Respondent

**ALONGWITH  
CRIMINAL APPLICATION NO.795 OF 2018**

Smt. Puja Vijay Mirage .... Applicant/Intervener

In the matter between

Mayur Ashok Sanas .... Applicant/Accused  
Vs.  
The State of Maharashtra .... Respondent

Mr. Aniket U. Nikam I/by Mr. Aashish Satpute for the Applicant.  
Ms. Veera Shinde, APP for the State.  
Mr. Niranjan P. Shimpi for Intervener

Mr. V.S. Choudhari, PN, Paud police station present.

***Coram : Smt. Sadhana S. Jadhav, J.  
Date : 2nd 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 2<sup>nd</sup> December 2015 in Crime No.267 of 2015, registered at Paud Police Station, District Pune on 24<sup>th</sup> December 2015, for the offences punishable under Sections 302, 120-B of the Indian Penal Code, Sections 3(1)(i), 3(1)(ii) and 3(4) of the Maharashtra Control of Organised Crimes Act ("MCOCA"), Sections 3 read with 25 and 4 read with 27 of Indian Arms Act.

3            It is the case of the prosecution that on 24<sup>th</sup> December 2015, one Sachin Mirage lodged a report at the police station alleging therein that he was informed by his cousin Mangesh that there was quarrel between his brother Vijay and one person at the gate of Paranjape scheme. Upon receipt of the said information, the complainant had rushed to the spot and noticed that there was a

blood lying on the ground, a knife was lying and his Range Rover Car was parked. Thereafter, he received an information that Vijay was taken to Sahyadri hospital in an injured condition. At the stage of admission, he was declared dead. The complainant and others had enquired with the security guard at gate no.2, Paranjape scheme, namely Kishor Bangar and they were informed that at about 12.10 midnight, Vijay and one unknown person were quarreling. Vijay was crying for help. Thereafter the said unknown person had assaulted him with the help of knife. The security guard was scared and therefore did not interfere. Vijay was lying in injured condition in the gate.

4           In the course of investigation, a proposal was sent for sanction under Section 23(1)(a) of MCOCA. There are in all seven accused persons. It is alleged that a country-made revolver with three live cartridges was seized at the behest of the applicant. Other weapons like knife, sickle etc. have also been recovered from the other accused persons. It is a matter of record that the original accused no. 6, Tushar Gogavale is the leader of organisation. In his

confessional statement, he had named the applicant as one of his associates. The other offences registered against the applicants are Crime Nos. 61 of 2010 and 71 of 2015. The present offence registered as Crime No. 267 of 2015. As far as Crime No. 61 of 2010 concerned, the applicant is acquitted by the Judicial Magistrate First Class, Pune vide judgment and order dated 31<sup>st</sup> December 2010. The applicant is mainly being prosecuted in the present case under Section 120-B of the Indian Penal Code. It is pertinent to note that the applicant has not been charge-sheeted with the principal accused Gogavale in any other cases. It was in the course of investigation, the provisions of MCOCA were invoked.

5            Learned counsel submits that although the Additional Director General of Police has accorded sanction to prosecute the applicant under the provisions of MCOCA, the necessary ingredients for prosecution under the provisions of MCOCA have been ignored. In the present case, the applicant has not been identified by the security guard at the time of test identification parade. The

statement of Kishor Bangar specifically indicates that the deceased was assaulted by Amar Sanas. The eye witness has not attributed any overtact to the present applicant, much-less has even established his presence. It is, in view of this that satisfaction can be recorded under Section 21, sub-clause (3). That in the event of the enlargement on bail on certain stringent conditions, the applicant is not likely to indulge into similar offences. In view of this, the applicant deserves to be enlarged on bail.

6           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.1,00,000/- with one or more solvent sureties in the like amount.
- iii )           The applicant shall not reside in Taluka Mulshi, District Pune till the conclusion of the trial.

iv )        The Intervention Application is heard, allowed and disposed of.

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