

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

BAIL APPLICATION NO.2943 OF 2017

Mr. Navin Satyavan Malik

... **Applicant**

V/s.

The State of Maharashtra
(At the instance of Panvel
Railway Police Station)

... **Respondent**

Mr. Diwakar Singh for the Applicant.

Smt. Rutuja Ambekar, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 4th JULY 2018

P.C.:

1. This is an application under Section 439 of the Cr.P.C. for bail in C.R No.55 of 2015 dated 04.08.2015 registered with Panvel Railway Police Station under Sections 395, 397 and 120-B of IPC and under Section 3 & 25(c) of the Arms Act and under Sections 3(1) (ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (hereinafter referred to as the M.C.O.C. Act)
2. Heard the learned counsel for the applicant and the learned APP. Perused the charge-sheet.
3. The prosecution case in brief is that, the applicant is a member of organized crime syndicate headed by James Almeda @

Sam. The crime syndicate of James Almeda @ Sam is indulging into committing robberies in running trains. The provisions of M.C.O.C.Act are applied to the present case i.e. to C.R.No.55 of 2015 registered with Panvel Railway Police Station. That the informant Chandan Revenkar is a Jeweller by profession and conducts his business in the city of Karwar, State of Karnataka. That the first informant Chandan Revenkar alongwith his employee Ganesh Kurdekar were traveling from Kokan Kanya Express from Karwar to Mumbai on 3.8.2015 in the night and were carrying gold/ornaments with them. When the train was about to reach at Panvel station, in wee hours of 4.8.2015 it is alleged that the accused started breaking the chain tied to the bags of the informant and at that time, due to the sound Chandan Revenkar and his employee Ganesh Kurdekar woke up and confronted with the said persons. It is alleged that at that time one person threatened the informant with a fire-arm and others threatened with a knife and told him to keep mum. The said persons thereafter took the said bags and got down near Panvel Railway Station on 4.8.2015 at about 4.15 a.m.

The applicant and other accused-persons came to be arrested in due course of time. During the course of investigation, it was

revealed to the Investigating Officer that the said crime was committed by the organized crime syndicate headed by James Almeda @ Sam, and therefore, the provisions of M.C.O.C. Act are applied to the present crime. After completion of investigation, police have submitted charge-sheet.

4. The learned counsel appearing for the applicant submitted that the co-accused namely Pankaj Jamveer Singh, who has been attributed with the same and similar role, has been released on bail by this Court by an Order dated 25.07.2017 and therefore, the applicant may also be released on bail. He submitted that the applicant has no concern with the head of organized crime syndicate i.e. James @ Sam. He further submitted that there are no two common offences, wherein the applicant is shown to have been involved with the organized crime syndicate headed by James Almeda @ Sam. He submitted that the identification parade of the applicant has been conducted belatedly i.e. after more than 45 days from the date of his arrest and therefore, the same cannot be relied upon. He, therefore, prayed that the applicant may be released on bail.

5. The statements of witnesses namely Chandan Revenkar and

Ganesh Kurdekar disclose that when they were traveling in the train, at about 4.15 a.m., they heard the sound of cutting of the chain tied to their bags and therefore they woke up. They observed that some persons were breaking the chains of bags. That they also tried to create hue and cry for the same. At that time, one person threatened him by showing a pistol and asked him to keep mum and the other persons thereafter cut open chain of their bags. Thereafter, when the train reached near Panvel Railway Station, the accused persons got down from the said train. The said two witnesses namely Chandan Revenkar and Ganesh Kurdekar have identified the applicant in the test identification parade as the same person who threaten them with a pistol on 04.08.2015 in the said Kokan Kanya Express. Thus there is sufficient material available on record to indicate the clear complicity of the applicant in the present crime.

6. After taking into consideration the material available on record, it is difficult to hold that the applicant is not *prima facie* guilty of the offence as contemplated under Section 21(4) of the M.C.O.C. Act and the applicant therefore does not deserve to be released on bail.

7. The application is accordingly rejected.

(A.S.GADKARI, J.)