IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3020 OF 2017

Javed Yousuf Qureshi, Age 37 years,
R/o.2/25, Rafi Nagar, Near Cementary,
Shivaji Nagar, Govandi, Mumbai-400 043. Applicant
versus
The State of Maharashtra Respondent

WITH
CRIMINAL BAIL APPLICATION NO.14 OF 2018

Rafique Ahmed Kabir Ahmed Kha, Age 49 years,
R/o.Plot No.5, Room No.3080,
New Gajanan Colony, Ahilyabai Holkar Marg,
Shivajinagar, Govandi, Mumbai-400 003
(Presently lodged at Mumbai Central Prison) Applicant
versus
The State of Maharashtra Respondent

WITH
CRIMINAL BAIL APPLICATION NO.222 OF 2018

Atique Ahmad Khann s/o Kair Ahmad Khan,
Age 42 years, Occ.Business, R/o.Nawab Cable,
Mo.Rafiq Nagar, Zopadatti Part-2,
Shivaji Nagar, Govandi, Shivaji Nagar,
Mumbai Applicant
versus
The State of Maharashtra Respondent

Mr.Kuldeep Patil with Ms.Megha Bajaria for applicant in BA No.3020/2017.
Mr.Amin Solkar for applicant in BA No.14 of 2018.
Ms.Anjali Awasthi I/by Moinuddin Khan for applicant in BA No.222 of 2018.
Ms.A.A.Takalkar, APP, for State.
Mr.D.M.Desai, ACP, Deonar Division, present.

CORAM : PRAKASH D. NAIK, J.
DATE : 1st October 2018

PC :

1. The applicants have preferred these applications for bail in connection with CR No.171 of 2016 registered with Shivaji Nagar Police Station for offences punishable under Sections 384, 506 r/w 34 of Indian Penal Code. Subsequently the provisions of Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime Act, 1999 were invoked.

2. The case of the prosecution, in brief, is as follows :

(a) Fire broke at Deonar Dumping Yard and accordingly inquiry was instituted to look into the cause of fire. The complainant Rajendra Dinkar Zele, Police Inspector attached to Nehru Nagar Police Station, was part of investigation and inquiry wherein it was transpired that in the year 2009, the Municipal Corporation for Greater Mumbai had entered into an agreement with Global Environment (Deonar) Limited for proper disposal of waste material dumped at Deonar Dumping Ground;

(b) During the investigation it transpired that some persons are illegally entering in the Deonar Dumping Yard and use to segregate the garbage. The segregated garbage was sent to specific parts of dumping yard. The garbage from hospitals, five star hotels, bio-medical, Mumbai Port Trust, Railways etc was dumped at specific places and the same was sold for monetary benefit;

(c) The number of vehicles carrying the garbage were not registered with MCGM. After segregating the garbage, the remains were set on fire by the scrap dealers. It is alleged that Rafique Khan, his brother Aatique Khan and Javed Qureshi had their monopoly. They used to assault persons who were interfering in their work. They forcefully extorted money from people. The statements of various witnesses were recorded;

(d) Rafique Khan has spread his terror in Rafique Nagar and Baba Nagar. He used to conduct illegal parking on 90 ft road. Approximately 200 vehicles were parked at the said place. It is further alleged that the parking did not have approval of MCGM. Rafique used to collect Rs.100/- to Rs.300/- forcefully from the vehicle owners. He owned dumpers for transporting mud in which he used to carry the mud and dump at the dumping yard without permission. It is alleged that Rafique had made an entrance to dumping yard by demolishing the security wall of dumping yard at Rafique Nagar near 90 ft road. He forcefully extorted Rs.2,000/- to Rs.5,000/- from every person who used to dump mud in the dumping yard. It is alleged that when the owner used to refuse to pay, such persons were assaulted. The brother of Rafique, Aatique, had also created terror in the area. The accused Aatique along with Javed Qureshi used to get the vehicles containing bio-medical waste to Rafique Nagar and Baba Nagar. They used to make the segregators of garbage to segregate the same. Aatique had his own dumpers and he used to dump mud at the newly built cemetery at Rafique Nagar. He used to threaten members of MCGM if they tried to restrain him. Due to their terror nobody complained against them. One Qadir had complained against Rafique and Aatique. Thereafter they had assaulted Qadir;

(e) FIR was registered with Shivaji Nagar Police Station vide CR No.171 of 2016 under Sections 384, 506 read with Section 34 of IPC. During the course of investigation the investigating officer forwarded proposal for approval u/s 23(1)(a) of MCOC Act for invoking the provisions of Section 3((1)(ii), 3(2), 3(4) of MCOC Act with the competent authority. Approval was granted and subsequently on completing investigation, the charge sheet was filed against the applicants-accused.

3. Applicant Javed Qureshi preferred an application for bail before the MCOC Special Court. The said application was rejected by order dated 26th October 2017. Applicant Rafique Khan preferred an application for bail before the MCOC Special Court, which was rejected by order dated 26th September 2017. Applicant Aatique Khan preferred an application for bail before the MCOC Special Court which was rejected on 26th September 2017.

4. Learned counsel Mr.Solkar submitted that the provisions of MCOC Act are not attracted in the present case. The facts do not cover the case within the definition of "continuing unlawful activity" as the offence which is registered against the applicants-accused do not attract imprisonment of three years or more. Learned counsel referred to the definition of "continuing unlawful activity" as stipulated in Section 2(d) of MCOC Act. It is submitted that continuing unlawful activity means an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment for three years or more undertaken either singly or jointly as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than one charge sheet have been filed before the competent Court within the preceding period of ten years and that the Court has taken cognizance of such offence. It is submitted that the offence registered against applicants

vide CR No.171 of 2016 was under Section 384, 506 r/w 34 of IPC. It is submitted that the punishment provided for the offence u/s 384 is up to three years or with fine or with both. It is submitted that the definition continuing unlawful activity refers to the cognizable offence punishable with imprisonment of three years or more. Therefore, the offence which is registered against the applicants is not covered by the said definition. Reliance was placed on the decision of the Hon'ble Supreme Court of India in the case of Rakesh Kumar Paul Vs. State of Aasam (2017)9-Scale-24. It is submitted that the learned Special Judge has not considered various judgments cited in favour of grant of bail to the applicants, more particulars the case of Rajeev Chaudhary decided by the Hon'ble Supreme Court. It is submitted that the said decision was referred to by the Supreme Court in the case of Rakesh Kumar Paul.

5. Learned advocate Mr.Patil and Mrs.Awasthi adopted the aforesaid legal submission advanced by the learned advocate Mr.Solkar. In addition to that, it is submitted that the factual matrix of the present case do not warrant the invocation of the provisions of MCOC act. Mr.Patil submitted that the accused Javed Qureshi was allegedly the employee of the other accused. No offence under the provisions of Section 384 of IPC is made out against him. Learned advocate drew my attention to the statements of witnesses recorded during the course of investigation to submit that the provisions of MCOC cannot be applied against the applicant Javed Qureshi. Learned counsel pointed statement of Suresh Sonawane, Dilip Tambe, Jagdish Waghela and Kashinath More. It is submitted that apart from the said statements, there is no other evidence against the accused Javed Qureshi. There is no evidence to indicate that the said

accused is engaged in organized crime is a member of organized crime syndicate. It is submitted that the case arising out of CR No.354 of 2009 registered u/s 302 of IPC and which is relied upon by the prosecution for granting approval, had ended in acquittal. The case registered vide CR No.40 of 2012 for offence punishable u/s 323, 324, 504, 506 of IPC for invoking the provisions of MCOC Act is punishable with the imprisonment which may extend to three years. There was no evidence to substantiate the charge that the applicant and the other accused were the members of organized crime syndicate. Mrs.Awasthi submitted that the accused were acquitted in CR No.354 of 2009 which was relied upon by the prosecution. The allegations against the applicant-accused Aatique Khan are vague. The cases relied upon by the prosecution cannot be taken into consideration for invoking the provisions of MCOC Act. There is no allegation of extortion against accused Aatique Khan. Learned counsel drew my attention to the statement of witness no.13 recorded on 29th April 2016. The said witness has not referred to the involvement of the accused Aatique Khan in the alleged threats and extortion of money towards parking. Learned counsel also pointed out statement of the complainant which forms the FIR and submitted that the complaint does not attribute any role to the applicant-accused Aatique Khan. Similarly learned advocate also pointed out statement of PW no.14 which also do not implicate the said applicant. It is submitted that the sanction order do not refer to any other case. The approval and the sanction were defective. There was no material to come to the conclusion that the accused Aatique Khan is a member of organized crime syndicate. It is submitted that the applicant Aatique Khan and Rafique Khan are brothers. There was no organized crime syndicate which is requirement to initiate prosecution under the provisions of MCOC Act. It is therefore submitted that bail be granted to the applicants.

6. Learned APP submitted that on the basis of complaint lodged by the first informant, FIR vide CR No.171 of 2016 was registered under Sections 384, 506 r/w 34 IPC with Shivaji Nagar Police Station against all the applicants. During the course of investigation, statements of various witnesses were recorded by police. The applicant-accused Javed Qureshi is the business partner of co-accused Aatique Khan who is the brother of gang leader Rafique Ahmad Khan. He was looking after business of bio-medical waste, garbage, scrap etc. The said accused was also looking after financial affairs of the business. He was managing the business of co-accused and earning monetary benefit out of the business. During the course of investigation it was revealed that there is sufficient evidence against the accused to prove continuous unlawful activities of the organized crime syndicate headed by accused Rafique Ahmad Kabir Ahmad Khan and more than one charge sheets were filed relating to cognizable offences having punishment of three years or more against the gang leader before the competent Courts within the preceding ten years and the Courts have taken cognizance of said charge sheets. It is further submitted that the proposal was forwarded by the Senior Inspector of Police to Additional Commissioner of Police for initiating action under the provisions of MCOC Act. The proposal was received by the Additional Commissioner of Police and after perusing the evidence on record, in exercise of powers conferred under Section 23(1)(a) of the MCOC Act, approval was granted to apply provisions of the said Act to CR No.171 of 2016. Sanction was accorded to the proceedings to

prosecute the applicants-accused being the active members of organized crime syndicate headed by Rafique Ahmad Khan for offences punishable u/s 3(1)(ii), 3(2), 3(4) of MCOC Act. The sanction was accorded on 28th July 2016. On completing investigation charge sheet was filed against the accused. Initially charge sheet was filed against accused Rafique Khan and Aatique Khan. The applicant Javed Qureshi was shown as wanted accused. Subsequently the said accused was arrested on 30th July 2017. The investigating officer has filed affidavits opposing the applications for bail. It was stated therein that the head of the gang namely Rafique Ahmad Kabir Ahmad Khan and the accused Javed Qureshi had committed offences vide CR No.354 of 2009 registered under Sections 302, 323, 120B, 34 of IPC. The said case has resulted in acquittal. The accused also committed the offence vide CR No.40 of 2012 u/s 324, 323, 504, 506(2) r/w 34 IPC. They were also involved in offence registered with Shivaji Nagar Police Station vide CR No.123 of 2016 registered u/s 269, 285, 435, 436, 427 r/w 34 IPC. Supplementary charge sheet was filed against accused Javed Qureshi. It was further stated that the accused Javed Qureshi has criminal antecedents viz CR No.329 of 2005 registered with Shivaji Nagar Police Station, which has resulted in acquittal and CR No.111 of 2006 in which he is convicted. It is further stated that he was also prosecuted vide CR No.354 of 2009 which case has resulted in acquittal and CR No.182 of 2016 registered with Shivaji Nagar Police Station, which is pending in the Court. The said applicant-accused is the member of organized crime syndicate. They have created reign of terror within Shivaji Nagar vicinity. There is sufficient evidence to invoke provisions of MCOC Act.

7. Learned APP further submitted that applicant Rafique Khan is the gang leader and Aatique Khan is his brother, who is the business partner. He was solely looking after the business of bio-medical waste garbage, scrap etc. More than one charge sheets were filed against the said accused for the offences having punishment of three years or more. Offences were registered against the said accused vide CR No.354 of 2009, CR No.40 of 2012, CR No.123 of 2016 and the present offence. In the affidavit filed by the prosecution opposing grant of bail to the said accused, it was stated that the case arising out of CR No.354 of 2009 has resulted in acquittal and the other cases are pending. It is submitted that number of witnesses have fortified that the accused is unauthorizedly running parking on 90 ft road near dumping ground and collecting amount from the drivers and owners of vehicles. If the amount is not paid, the accused is issuing threats and assaulting them and collecting money. It is further submitted that the accused had pulled down the compound wall of the dumping ground and unauthorizedly unloaded the debris in the dumping ground and collected huge amount by assaulting the drivers or owners of the dumpers. The accused is involved in organized crime with his brother Aatique and Javed Qureshi. Huge amounts are standing to the credit of accused in their bank accounts. The affidavit further indicates that offences vide CR No.217 of 2005, CR No.111 of 2006, CR No.354 of 2009, CR No.40 of 2012, CR NO.149 of 2012, CR NO.467 of 2014, CR No.123 of 2016 and CR No.182 of 2016 were registered against the applicant-accused Rafique Khan. The offences arising out of CR No.111 of 2006 and CR No.354 of 2009 had resulted in acquittal. It is further submitted that the applicant-accused is the gang leader who has

created a rain of terror within Shivaji Nagar vicinity. The aforesaid offences were registered with Shivaji Nagar Police Station.

8. It is submitted by learned APP that there is sufficient evidence against Aatique Ahmad Khan. The said applicant is the business partner of co-accused Javed Qureshi and brother of gang leader Rafique Ahmad Khan. He was looking after the business of bio-medical waste, garbage, scrap etc. He was looking after financial affairs of business. He was managing the business of both the accused. During the course of investigation it was revealed that there is sufficient evidence to prove continuous unlawful activities of the organized crime syndicate headed by accused Rafique Ahmad Khan and more than one charge sheets of cognizable cases having punishment of three years or more have been filed against the accused before the competent Court. The affidavit filed opposing the grant of bail to the said accused refers to the cases registered against the applicant-accused Aatique Khan and Rafique Khan with Shivaji Nagar Police Station vide CR No.354 of 2009, CR No.40 of 2012, CR No.123 of 2016 and CR No.171 of 2016 (present case). The case vide CR No.354 of 2009 has resulted in acquittal. It is submitted that prima facie case is made out against all the applicants in relation to offences under the provisions of MCOC Act. The applicants are members of organized crime syndicate and they have created terror within the jurisdiction of shivaji Nagar Police Station. The submission advanced by learned advocate for applicant in Bail Application No.14 of 2018 with regards to the punishment provided for the offence vide CR No.171 of 2016 is devoid of merits. The contention that the requirement to qualify the definition of continuing unlawful activity is not satisfied by the prosecuting

agency is not sustainable in law. It is submitted that the offence u/s 384 of IPC is punishable with imprisonment up to three years. The decision relied upon by learned counsel for applicant is not applicable in the present case. Hence, it is prayed that the application be rejected.

9. I have gone through the charge sheet which is placed on record by the respective counsel representing the applicant-accused. The prosecution case is that after the incident of fire at Deonar Dumping Yard, committee was appointed under the Additional Commissioner of Police, East Region, to probe into the said incident. It was revealed that garbage was collected from various places at Mumbai and dumped at Deonar Dumping Yard. MCGM had floated tender to dispose off the garbage in scientific way. Amongst the tenders received from various places, M/s.Tatwa Global Environment Limited was selected. As per the deal between the company and the MCGM, the project had commenced. During the inquiry which was commenced after the incident of fire, statements of various persons were recorded. It was revealed that some persons have illegally entered into Deonar Dumping Yard and used to segregate garbage. The garbage from hospitals, hotels, port trust, railways was being dumped at specific places and same was sold for monetary benefit. Number of vehicles carrying the garbage were not registered with MCGM. The remains of garbage were set on fire by scrap dealers. On further investigation it was revealed that the applicants were conducting illegal activities in the dump yard. They used to assault the persons and forcefully extort money from them. They had created terror in Rafique Nagar and Baban Nagar. It is further alleged that the accused were conducting illegal parking on 90 ft

road. Approximately 200 vehicles were parked at the said place. The parking had no approval from the MCGM. The accused used to collect Rs.100/- to Rs.300/- forcefully from the vehicle owners. The applicant-accused Rafique Khan was owner of dumpers which were used for transporting debris and to carry mud and dump the same at the dump yard without permission. The accused made entrance to dumping yard by demolishing the security wall of the dumping yard at Rafique Nagar. The accused used to forcefully extort money from person who used to dump debris in the dumping yard. On refusal, the persons were assaulted. The applicants used to get the vehicles containing bio-medical waste to Rafique Nagar and Baban Nagar. They used to make the segregators of garbage to segregate the same. The debris was being dumped near the newly build cemetery at Rafique Nagar. The accused used to threaten the members of MCGM whenever they were restrained by them. Due to terror nobody had complaint against the accused. CR No.171 of 2016 was registered against the applicants u/s 384, 506 r/w 34 IPC. During the course investigation statements of various witnesses were recorded by police. The applicant-accused Rafique Khan was purportedly the leader of the gang. Applicant-accused Aatique Khan is his brother. The applicant-accused Javed Qureshi was working with the aforesaid accused. He was looking after the affairs of the business. In the past the accused were involved in the case of murder. The said case has resulted in acquittal. Charge sheets were filed against the gang leader within the preceding ten years. Approval was sought for application of the provisions of MCOC Act. On considering the evidence on record approval was granted and subsequently sanction was also granted to prosecute the accused for the offences under the MCOC Act. According to the prosecution, several cases were registered against the applicants. Some of the cases were registered jointly against the accused. They were also having criminal antecedents. According to the prosecution, there is sufficient evidence to show that the accused were members of crime syndicate and have committed the continuing unlawful activities constituting the offences under the MCOC Act.

10. Prior approval was granted by Additional Commissioner of Mumbai, East Region, Mumbai on 7th May 2016. The approval indicate that from the fact of the case and after going through the investigation papers, statements of witnesses, record of evidence and after applying mind, the Additional Commissioner of Police was satisfied that the arrested accused namely Rafique Khan, Aatique Khan and Javed Qureshi are the active members of the organized crime syndicate headed by arrested accused Rafique Khan. The officer was further satisfied that more than one charge sheet of the case committed with the motive of pecuniary gain and other advantages have been filed against the leader of the organized crime syndicate in the preceding years and the competent Courts have taken cognizance of such cognizable cases. It is further indicated that the arrested and wanted accused being the members of organized crime syndicate singly and jointly have committed violent crime for monetary benefits. Hence, the crime committed in the present case amounts to an organized crime committed by the organized crime syndicate headed by Rafique Ahmad Kabir Ahmad Khan as defined in Section 2(1) of Maharashtra Control of Organized Crime Act, 1999. Subsequently, sanction was accorded by Commissioner of Police for Greater Mumbai on 28th July 2016. In the sanction order it was recorded that the Commissioner of Police is

satisfied that prima facie case is made out against the arrested accused for being tried u/s 3(1)(ii), 3(2), 3(4) of MCOC Act. It was further stated that the accused Rafique Khan is the gang leader of organized crime syndicate and has continued unlawful activities carrying out business of extortion by extorting money by illegal parking, illegal dumping of rubble, debris, bio-medical waste at Deonar Dumping Yard near Rafique Nagar and 90 ft road for pecuniary gain with arrested accused Aatique Ahmad Kabir Ahmad Khan and Javed Yusuf Qureshi. All the three accused have participated through out the offence and are continuing their unlawful activities for pecuniary gains/undue economic advantage using violence/threat of violence and thereby committed an offence punishable u/s 3(1)(ii), 3(2), 3(4) of MCOC Act. The Commissioner was further satisfied that there is sufficient evidence to prove continuous unlawful activities of the organized crime syndicate headed by accused Rafique Ahmad Kabir Ahmad Khan and more than one charge sheet of the cognizable cases having punishment of three years or more has been filed against gang leader before the competent Courts within the preceding ten years and the competent Courts have taken cognizance of the charge sheet.

11. I have also perused the statements of witnesses recorded during the course of investigation and which forms part of charge sheet. PW-13 has stated that Rafique is charging money for parking near 90 ft road at Shivaji Nagar-Govandi and in the event any person refused to pay the money, he threatens and recovers money from them. He also stated that about 200 vehicles were being parked at the said place daily. The accused does not issue any receipt towards parking charges. PW-14 in his statement dated 29th April 2016 and

9th May 2016 has also given similar version with regards to the activities conducted by the accused Rafique Khan. PW-15, PW-16, PW-17 and PW-18 have also referred to similar acts committed by accused Rafique Khan. PW-19 has stated that part of security wall has been demolished by the accused Rafique and he was allowing the vehicles to get through in the dumping debris. He has further stated that accused Rafique and Aatique, both were allowing the vehicles to enter through the broken wall of security wall by charging Rs.1,000/- to Rs.2,000/- per vehicle for the purpose of dumping debris. In the event the payment was not made, the vehicle drivers were being assaulted by them. They were also assisted by Javed Qureshi. With his assistance the bio-medical waste from various hospitals were being dumped at the Deonar Dumping yard. He used to separate plastic from the said waste and the same was being sold to various businessmen dealing in plastic and earning money. The said activities were conducted without any valid permission. The premises belongs to the Corporation and the parking lot was being conducted by the accused by charging money from the vehicles which were parked to the extent of about Rs.200 to Rs.300 per day. Similar statements were made by PW-20, PW-21, PW-22, PW-23 and PW-24. PW-23 has referred to the role played by all the three applicants. Similarly, PW-24 has also referred to the connivance of all the three applicants in bearing out the aforesaid activities. Similar statements were made by PW-25, PW-31, PW-32 and various other witnesses who have attributed specific overt acts to the applicants indulging in the aforesaid activities. It is also noted that there are criminal antecedents and cases pending, inter se, between the applicants-accused. Prima facie there was sufficient material to invoke the provisions of the MCOC Act. The approval and the sanction order reflects application of mind of the authorities while invoking the provisions of the said act. It is apparent that the accused were involved in the aforesaid activities by using threat and assault which is evident from the statements of various witnesses. The material on record therefore satisfies the requirement of the provisions of MCOC Act. The material clearly satisfies the fact that there was continuing unlawful activity, organized crime and organized crime syndicate who were indulging in the activities of assault and threat in the manner as referred to by the witnesses whose statements were recorded during the course of investigation.

12. Continuing unlawful activity means an activity prohibited by law for the time being in force which is cognizable offence punishable with imprisonment of three years or more undertaken either singly or jointly as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than one charge sheet have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence. Organized crime syndicate means a group of two or more persons who acting either singly or collectively as a syndicate or gang indulge in activities of organized crime. Whereas organized crime means continuing unlawful activity by an individual singly or jointly either as a member of an organized crime syndicate or on behalf of such syndicate by use of violence or threat of violence or intimidation or coercion or other unlawful means, with an objective of gaining pecuniary benefit or gaining undue economic or other advantage for himself or any other person or promoting insurgency. To arrive the aforesaid requirement, the investigating agency has collected evidence in the form of the cases registered against the

applicant-accused as well as the statements of various witnesses recorded during the course of investigation. The contention of the learned counsel for applicants is that the offence registered against the applicants is punishable with three years and does not qualify the requirement the definition of continuing unlawful activity. Reading the aforesaid provision it is apparent that the offence as stipulated therein is cognizable offence punishable with imprisonment of three years or more. The provision does not indicate that the offence should be punishable with more than three years. The decision relied upon by the learned advocate for applicant is not applicable in the present case. The Court was considering the applicability of Section 167(2) of Code of Criminal Procedure, 1973 in the light of the expression “punishable with imprisonment for not less than 10 years”. The said provision relates to indefeasible right for default bail accruing to the accused when the period as stipulated therein comes to an end and the charge sheet is not filed. The said interpretation cannot be made applicable to the present case in the light of requirements to invoke the proceedings under the MCOC Act. In the said decision it was observed that legislative intent is and always has been to complete investigation into an offence within twenty four hours, failing which within 15 days as per old Code. The period of 15 days was extended to 60 days (new Code) and 90 days if investigation was relatable to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years. In respect to other offences, the period of 60 days remains unchanged. If investigation is not completed within 60 days/90 days, accused is entitled for default bail. The Court interpreted that the expression “not less than” would mean imprisonment should be ten years or more and would cover only those offences for which punishment could be imprisonment for a clear period of ten years or more. It was further observed that the words “may extend to ten years” stipulated in Section 386 of IPC, would mean imprisonment can be for a clear period of ten years or less. Hence, it could not be said that minimum sentence would be ten years or more. It was therefore argued that Section 384 of IPC refers to punishment extending to three years and it could be punishable with less than three years and would not be covered by definition of “continuing unlawful activities”. The interpretation was made for considering bail in default qua Section 167(2) in the light of detention of accused in custody. Hence it cannot be applied to aforesaid definition. Plain reading of said provision indicated offence punishable with three years or more and not on the basis on which Court would impose lesser punishment. Apart from that, to invoke provisions of MCOC Act, other cases registered against the accused were be taken into consideration. It is, therefore, apparent that the submission advanced by learned counsel for applicants cannot be considered in the present case. There is sufficient evidence against the applicants-accused in support of the prosecution case and no case for grant of bail is therefore made out. Hence, I pass following order :

ORDER

(i) All the bail applications are rejected.

(PRAKASH D. NAIK, J.)

MST