

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

CRIMINAL BAIL APPLICATION NO.949 OF 2019

Sanjay Sharanappa Bhosale

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Shivaji A. Masal, Advocate for Applicant.
- Mr.Prashant Jadhav, APP for the State/Respondent.
- ASI Mr.Dattatray Tondle, Mangalvedha Police Station, Solapur, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th OCTOBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.139/18 registered with Mangalvedha Police Station, Solapur, under sections 395, 308, 353, 115, 189, 504, 506 of the Indian Penal Code, under sections 4 r/w 25 of the Arms Act, under sections 9 and 15 of Environment Protection Act, under sections 3(1)/181, 130/177 of Motor Vehicle Act and under sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act (MCOCA).

2. Investigation is over and charge-sheet is filed. The Applicant is arrested on 23/10/2018 and since then he is in jail.
3. The FIR in this case is lodged on 23/04/2018 by Police Constable Suresh Lamjane. He has stated in the FIR that Superintendent of Police, Solapur, received an information that one Ravindra @ Papulya Kole and Prithviraj Bhosale along with others were excavating sand illegally from bed of river Bhima. Superior police officers arranged to conduct a raid. Panchas and Police party got ready for conducting raid. On 23/04/2018 at about 04.30 a.m. police party went towards Bhima river. On the way they could notice that sand was collected near the road towards river Bhima. Some persons were loading tractors and tempo with that sand. There was one tempo parked nearby. The raiding party members accosted two persons who were loading the tractors. They were Rahul Rameshwar Sarvale and Samadhan Bharat Sarvale. At that time, the raiding party could hear a tractor coming from the river bed. That tractor and the trolley were intercepted. At that time 10 to 12 persons came there

aggressively. One of them was saying that nobody could harm Ravindra Kale. He told one Sachin to take out weapon and assault the police. He told the tractor driver to drive the tractor on the police party. In the incident, they took away the tractor and trolley along with one brass of sand. The persons who were arrested were asked about the identities of the persons who had run away. 10 names were given by the arrested persons. One of the names was of the present Applicant. The tempo owner was one Prithviraj Bhosle. It was informed that the sand was collected by Ravya Kale. On this basis, the FIR is lodged.

4. The investigation was carried out and on 01/05/2018 the approval to apply provisions of MCOCA was granted. It was the case of the prosecution that an organized crime syndicate was headed by one Ravindra @ Papulya Rama Kale. He was involved in various offences like culpable homicide, dacoity, theft etc. The approval was granted against 13 persons including the present Applicant. There was one offence shown pending against the Applicant u/s 379 of IPC vide C.R.No.84/18

at Mangalvedha Police Station. The charge-sheet contains statements of Panchas and the police officers who were members of the raiding party viz. API Sandip Parmeshwar Dhande, PHC Ankush Vasant More, PN Amrut Rohidas Khedkar, PC Amol Tukaram Jadhav, PC Abhijit Digambar Thanekar etc. All of them have narrated the incident in the same manner as is narrated in the FIR.

5. Heard learned Counsel Mr.Shivaji A. Masal for the Applicant and learned APP Mr.Prashant Jadhav for the State.
6. Mr.Masal submitted that there is no material against the Applicant that can be translated into legal evidence during the trial. The Applicant is arrested on the basis of some vague information allegedly given by co-accused. This information has no evidentiary value. In the entire charge-sheet there is nothing against the present Applicant. There is nothing to show that the Applicant was a member of an organized crime syndicate or that he has helped the syndicate to commit this offence, which was continuing unlawful activity.

7. Learned APP opposed this application and relied on the statements in the FIR as well as statements given by the police officers.

8. I have considered these submissions. I am inclined to agree with the learned Counsel for the Applicant that there is hardly any material against the Applicant. The only reference to his name is the information supplied by the co-accused on enquiries made by the police staff at the spot. But there is no further investigation in respect of the involvement of the Applicant nor is there any evidence collected against the Applicant. The information given by the co-accused is also vague and it is not clear exactly which of the two arrested accused gave that information. In any case, it is difficult to base conviction only on the basis of such vague statements given by the co-accused. Therefore in the instant case there is nothing to show that the Applicant was involved in the offence of continuing unlawful activity of an organized crime syndicate. There is nothing to show that the Applicant was an associate of

the gang leader or of any other members of the syndicate. In this view of the matter, even at this stage, it is not possible to observe that the Applicant has committed any offence under MCOCA. Therefore the restrictions in granting bail under that Act u/s 21(4) will not operate against the Applicant. Considering that there is only one antecedent against him u/s 379 of IPC, there is scope to believe that the Applicant is not likely to commit any offence under MCOCA in future. In this view of the matter, the Applicant deserves to be released on bail. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.139/18 registered with Mangalvedha Police Station, Solapur, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)