

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

CRIMINAL BAIL APPLICATION NO. 2350 OF 2019

Ranjana Tanaji Wanve ...Applicant

Versus

The State of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 950 OF 2019**

Umesh Chandrakant Mastud ...Applicant

Versus

The State of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 889 OF 2019**

Anil Sudhakar Shinde ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. A. P. Mundargi, Sr. Advocate i/b Abhishek Yende, Advocate for the Applicant in Bail Application No. 2350 of 2019.

Mr. A.P. Mundargi Sr. Advocate i/b Bharat Kishore Manghani, advocate for the applicant Bail Application No. 950 of 2019.

Mr. Jaydeep D. Mane for applicant in Bail Application No. 889 of 2019.

Mr. H. J. Dedhia, APP for the state-respondent.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 25th November, 2019**

PC :

1. The applicants are seeking Bail in connection with C.R. No. 356 of 2018 registered with Barshi City Police Station, District

Solapur Rural, for offences punishable under Sections 364-A, 341, 323, 506 r/w Section 34 of Indian Penal Code. Subsequently, the provisions of Maharashtra Control of Organised Crime Act, 1999 (for short "MCOCA") under Sections 3(1)(ii), 3(2) and 3(4) were applied.

2. The applicants were arrested on 10th July, 2018. The case of the prosecution is based on the FIR lodged by the complainant alleging that he was conducting 'Nisarg Upchar Kendra' at Datta Nagar, Barshi and the same had been closed 5 years ago and he had shifted to Pune. Thereafter he started farming. On 9th July 2018 at about 4.00 p.m. he was riding motor cycle towards Mangalwar Peth. He was obstructed by white colour Indica Car. Accused Ranjana Wanve, Dnyaneshwar @ Bappa Lavand and one unknown person alighted from the car. The complainant was assaulted and forced to sit in the Car. Bappa Lavand was driving the car while accused Ranjana was sitting on the front seat while proceeding towards Indreshwar Sugar Karkhana, the accused demanded Rs. 10 Lakhs by saying that the complainant had earned lot of money by conducting Sex Determination Test. The complainant was threatened of dire consequences in the event he does not pay the amount. Smt. Wanve told the person on sitting next to complainant by calling his name as Umes Mastud to assault complainant on his face. They stopped the car near Indreshwar Sugar Factory. There was another car. The other

accused Anil shinde and Soma alighted from the said car, all of them threatened and demanded Rs. 10 Lakhs. They also stated that they have Sonography Machine. One women had approached him for Sex Determination. They also threatened that the case would be filed against complainant under the provisions of P.C.PN.D.T. Act. He was assaulted having his shouts people gathered at about 8.30 pm. The accused ran away. He approached Barshi Police Station and lodged the complaint. The investigation was conducted. Approval was forwarded for applying provisions of MCOC Act. Approval was granted and subsequently sanction was also granted under the said Act.

3. The applicants preferred an applications for bail before the Sessions Court which were rejected.

4. Learned Senior Advocate Mr. Mundargi for the applicants in Bail Application No. 2350 of 2019 and 950 of 2019 submitted that entire case is false and fabricated. The complaint do not attribute any element of provisions of Section 364-A of IPC. The complainant was prosecuted for offences punishable under the provisions of P.C.PN.D.T. Act. He further submitted that the theory of kidnapping for ransom punishable under Section 364-A of IPC was introduced for the first time by the complainant on 6th October, 2018. The

statements of witnesses supporting alleged kidnapping for ransom are fake. It is submitted that the complainant has improved his version even by changing the time of incident, with a view to invoke the provisions of Section 364(A). The complainant have filed a Criminal Writ Petition in this Court for quashing the FIR registered against him and he has denied the incident as reflected in his FIR which is subject matter of this applications. It is submitted that apparently it was sting operation. The co-accused Smt. Wanve had filed such complaints against persons indulging in illegal activities. He further submitted that the confessional statement of the co-accused completely exonerates applicant Umesh Mastud from crime. His presence is not referred to at place of incident. He further submitted that there is no material to invoke the provisions of MCOC Act. The applicant in Bail Application No. 950 of 2019 has no criminal antecedents. The applicant in Bail Application No. 2350 of 2019 had four cases registered against her out of which three cases are either compromised or resulted in acquittal. It is submitted that, the said applicant/accused was not involved in any case registered against gang leader. Thus, there is no evidence to show that the applicants in both these applications, were the members of crime syndicate and involved in continuous unlawful activities to attract the provisions of MCOC Act.

5. Learned counsel Mr. Mane, appearing for applicant in Bail Application No. 889 of 2019 reiterated the submissions advanced by the counsel appearing in the other applications. He submitted that except the confessional statement which is also not inspiring confidence there is no material against him. It is submitted that no other case is pending against him except the present case.

6. Learned APP submitted that the offence is of serious nature. The statements recorded during the course of investigation corroborates the version of the complainant. The incident as reflected in the FIR is supported various witnesses. The complainant was prosecuted for offence punishable under Sections P.C.P.N.D.T. Act. He was arrested and granted Bail. The supplementary statement was recorded thereafter. The statements of complainant and witnesses establishes offence under Section 364A of IPC. The complainant was pressurized by the accused for executing the affidavit for compromising the case. There are antecedents against the applicant in Bail Application No. 2350 of 2019. At this stage, the version of the witnesses which corroborates the prosecution case cannot be doubted. The confessional statement of accused recorded under Section 18 of MCOCA Act, supports the prosecution Case.

7. I have perused the charge sheet filed against the applicants.

The FIR was lodged on 10th July, 2018. The complainant has mentioned that the incident had occurred on 09th July, 2018 at about 4.00 p.m. It is alleged that the complainant was threatened, assaulted and demand of Rs. 10 Lakhs was made with him by the accused. It is alleged that Wanve Madam, Dnyaneshwar Lavand and one unknown person alighted from the car. The accused left the place at 8.30 pm. On noticing that people had gathered at place of incident, accused ran away. Statement of Yunus Mulla, Shivaji Raykode, Aakash Shahane, Amol Barangule, recorded on 10th July, 2018 refers to the fact that on 9th July, 2018 at 4.00 pm. Accused had obstructed motorcycle of complainant and they were assaulting complainant.

8. Further statement of complainant was recorded on 06th October, 2018. He stated that on 09th July, 2018 at about 10.00 am. He received call from Wanve Madam, and she enquired whether he is at Barshi. At about 5.00 to 5.30 pm. Complainant was proceeding towards Barshi on his Motor Cycle. Wanve madam, Dnyaneshwar Lavand and Umesh Mastud who were travelling in Indica car obstructed him. He was assaulted. He was taken to various places in the car. When they reached at Indreshwar Sugar Kharakhana, other persons Anil Shinde, Soma Sonavanw came there in another car. The complainant was informed that one lady had visited him for Sex

determination Test. Offence would be registered against him by using dummy women. They demanded Rs. 25 Lakhs. The complainant told them that he do not have money. He was taken to hotel Krishna bypass road. Enquiry was made with Vinod Mehta about money. He was assaulted and left at Karkhana road. He lodged complaint with Police. He stated that the time of 4.00 pm. was mentioned in complaint as he was disturbed and the correct time of incident is 5.00 to 5.30 pm. He was taken to hospital for treatment. The relatives of accused threatened him to settle the case. They sent photo of writing executed on stamp paper on whats-app. Due to fear he had deleted the conversation and photo. This statement speaks volumes of doubt. In complaint he had stated that incident had occurred at 4.00 pm. He also stated that at about 8.30 pm. after noticing crowd, the accused ran away at 8.30 pm. Thereafter FIR was lodged. In the statement dated 6th October, 2018 he refers to demand of Rs. 25 Lakhs. He also refers to enquiry with Hemant Mehta. These facts were absent in complaint. Statement of Hemant Mehta was recorded on 6th October, 2018. He stated that on 9th July, 2018, he received call from complainant at 7.30 pm. and informed that Bappa Lavand, Ranjana Wanve and associates abducted him and assaulted him for money. They demanded money and threatened of lodging FIR. He called him for mediation at Shirikrishna Hotel. It is pertinent

to note that the complaint is silent in this regard. In statement dated 6th October, 2018 the complainant has not stated that he had aforesaid conversation with Hemant Mehta. Mr. Mehta further stated that he along with Shah Mama went to Kurduwadi bypass road near Krishna hotel. Santosh Survase was at hotel. Bappa Lavand demanded Rs. 10 Lakhs for releasing complainant. They told accused to show them complainant Umesh Mastud threatened them. One women was in car who was introduced as Health Officer. The accused did not allow them to meet complainant. They left towards Barshi. The statement is apparently doubtful as complainant has not referred to such incident. As per complaint the complainant was in custody of accused till 8.30 pm. The question of aforesaid incident occurring at 7.30 pm. Does not arise. The statement of Survase dated 6th November, 2018 refers to visit of Shah Mama and Mehta at his hotel on 9th July, 2018 at 7.30 pm. to 8.00 pm. He also refers to some discussion between aforesaid persons and accused. The statement is recorded belatedly.

9. The said theory of kidnapping for ransom is reflected for first time in statement dated 6th October, 2018. Thus, there is change in the version of the complainant. The complaint at the most proceed on the basis of demand of money which may attract the offence of extortion. The version of the complainant is doubtful. I have also

perused the approval sought for applicability of the provisions of MCOC Act. Undisputedly, there are no criminal antecedents against the applicant in Bail Application No. 950 of 2019 and 889 of 2019. The applicant in Bail Application No. 2350 of 2019 was allegedly involved in some cases. It is submitted that three cases out of four have come to an end. The said applicant was not involved in any case with the purported gang leader, who is having several cases. Thus, there is nothing on record to substantiate or no cogent evidence to establish that the applicants were the members of crimes syndicate indulging in continuous unlawful activities to attract the provisions of MCOC Act.

10. The complainant has filed Criminal Writ Petition in the High Court for quashing complaint filed against him under P.C.P.N.D.T. Act vide C.R. No. 368 of 2018. In the said petition the copy of which is produced by learned counsel for the applicant in Bail Application No. 2350 of 2019, it is mentioned that, persons who had taken him to Barshi Police Station were arrested in false case of extortion. He was compelled to sign some statements. The complainant was arrested on 17th September, 2018 and granted bail on 20th September, 2018. It is not explained why his supplementary statement was recorded on 6th October, 2018. The witness Mehta was silent till 6th October, 2018. The confessional statement of applicant in Bail Application No. 889

of 2019 was recorded. He has not referred to involvement of Umesh Mastud. The said accused had allegedly called doctor (complainant) on instructions of other accused who were planning to raid him. The confession do not refer to continue unlawful activities by crime syndicate.

11. Considering the aforesaid circumstances, the rigors of Section 21(4) of the MCOC Act would not debar the applicants being released on bail. Hence, case for grant of Bail is made out.

ORDER

- i) Criminal Bail Application Nos. 2350 Of 2019, 950 of 2019 and 889 of 2019 are allowed.
- ii) The applicants are directed to be released on bail in connection with C.R. No. 356 of 2018 registered with Barshi City Police Station, District Solapur Rural, which is the subject matter of M.C.O.C. Special Case No. 1 of 2019 pending before Baramati Special Court, Pune on furnishing P. R. Bond in the sum of Rs.25,000/-, each with one or more sureties in the like amount;
- iii) Applicant shall report Barshi City Police Station once in a month on first Saturday of the month between 10:00 a.m. to 2:00 p.m. till further order;

iv) Criminal Bail Application Nos. 2350 Of 2019, 950 of 2019 and 889 of 2019 are disposed of accordingly.

(PRAKASH D. NAIK, J.)