

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

**CRIMINAL BAIL APPLICATION NO. 09 OF 2019
WITH
CRIMINAL APPLICATION NO. 371 OF 2019**

Sachin Jayvilas Jadhav Applicant
Versus
The State of Maharashtra Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 1082 OF 2019**

Hamid Nawab Shaikh Applicant
Versus
The State of Maharashtra Respondent

Mr. Shirish Gupte, Sr. Counsel i/b. Akshay A. Deshmukh, Advocate
for the Applicant in B.A.No.09 of 2019.

Mr. Shirish Gupte, Sr. Counsel i/b. Sachin S. Thombare, Advocate
for the Applicant in B.A.No.1082 of 2019.

Ms. S. S. Kaushik, APP for the State/Respondent.

**CORAM :SARANG V. KOTWAL, J.
DATE :10th OCTOBER, 2019**

P.C. :

1. Both these applications are decided by this common order because they are arising out of a common registered offence. For the sake of convenience the applicants in both these applications are referred to by their names. Bail Application No.09

of 2019 is filed by Sachin Jadhav and Bail Application No.1082 of 2019 is filed by Hamid Shaikh.

2. The prosecution story is that, one Santosh Chandilkar was the head of an organized crime syndicate and he has many serious offences against his name since the year 2001. He was in jail since May 2013 and even thereafter he continued with his illegal activities operating from inside the jail. Accused Sushil Mancharkar was advocate by profession and he was actively involved in politics in Pimpri Chinchwad area. He wanted to establish supremacy in the area, therefore, he came in contact with Santosh Chandilkar's crime syndicate. He hired Chandilkar's syndicate to commit murder of one Kailas Kadam who was his political opponent. The amount of Rs.20 lakh was agreed to be paid for commission of that murder, of which, Rs.5 lakhs were actually paid. The accused procured three pistols and 30 rounds etc. The conspiracy was hatched so that the accused Kalya @ Raju, Santosh Jagtap and Santosh Chandilkar could escape from the custody while they were returning from the court with police escort. Accordingly, on 10/04/2017 these three accused had

attended the court cases in Khandala court under police escort. While they were taken back to Yerwada Central Jail, on the way, with the help of some police officers, these three accused escaped.

2. Initially the FIR was lodged with Bharati Vidyapith police station vide C.R. No.183 of 2017, U/s.224 r/w. 34 of the IPC by one Police Constable Chandanshiv. Subsequently, it was revealed that the first informant Chandanshiv himself was involved in helping these accused in escaping from the police custody. Thereafter, the said offence was transferred to Pimpri police station and C.R. No.352 of 2017 was registered. The investigation was carried out. During the course of investigation, provisions of The Maharashtra Control of Organized Crime Act, 1999 (MCOC Act) were applied and at the completion of chargesheet, sanction for prosecution was granted. There were in all 17 accused. The allegations against these applicants are that they were also in the same Yerwada Central prison with the other accused for some time and after their release from jail they had helped the other accused in the entire episode. There are allegations that they helped in planning with the other accused which ultimately resulted in these

three aforementioned accused escaping from the police custody.

3. I have heard Shri. Gupte, learned Senior counsel for the applicant and Ms. Kaushik, learned APP for the State.

4. Shri. Gupte submitted that the applicants are not connected with the organized crime syndicate. They did not share any of the offences registered against the gang leader Chandilkar. There is no material against them except bare allegations. Learned APP submitted that there was a statement of one witness Kisan Pader which is incriminating against the applicant. She submitted that it is a serious offence and considering the provisions of MCOC Act, the applicants should not be released on bail.

5. I have considered these submissions and in particular, I have perused the statement of witness Kisan Pader. His statement is recorded on 28/09/2017. He has stated in his statement that the main accused Santosh Chandilkar is his relative. He used to meet Chandilkar quite often when he was produced in Khandala Court at Satara. This witness used to pay money to the police officers accompanying Chandilkar. He has stated in his statement that whenever this accused was brought to Satara for the court case,

while going back, the accused and the police officers in the escort party used to stop at a hotel at Shindewadi Fata, Khed-Shivapur road. They used to have liquor and meals there. This witness stated that Suresh Zende used to pay the bill. He has specifically stated in his statement that in the month of December 2016, while accused and police were returning after court case, they had stopped at Khed Shivapur. That time one advocate from Pimpri and his three friends had met them at hotel Mansi and they were discussing for half an hour. It is his specific case that they were planning to escape from the custody and to commit murder of a Councilor in Pimpri. Pader has specifically stated that he could identify said advocate if shown to him. His statement was recorded on 28/09/2017. Subsequently Test Identification Parade was held on 27/10/2017. At that time, this witness Pader identified both these applicants. Beyond this evidence there is absolutely no material against the applicants. Even the supplementary statement of this witness is not recorded as to in what context he had identified these applicants. According to his story, he had seen that advocate and his three friends in December 2016 and thereafter

identification parade was held in October 2017. He has not given any description of the friends of the advocate who he had seen in hotel Mansi. His statement to that effect is not clear. In the absence of any further statement, it is difficult to understand in what context he had identified the applicants. However, the story in the charge-sheet does not show anything much against the present applicants except mentioning that they had helped the main accused Chandilkar in executing this plan. In this view of the matter, there is hardly any material to connect the applicants with the present offence in question, therefore, it cannot be said that the applicants were part of continuing unlawful activities of the organized crime syndicate headed by Chandilkar. There is no role attributed to these applicants. Learned APP was unable to point out any CDR connecting the present applicants with the main accused in and around the date of incident. In this view of the matter, considering this evidence, it cannot be observed that the applicants have committed any offence punishable under MCOC Act. The apprehension of applicants committing further offence can be taken care of by imposing certain conditions. Though, it is

difficult to observe with certainty that the applicants are unlikely commit any similar offence under MCOC. Considering the circumstances of the case, there is scope to believe that the applicants are not likely to commit offence under MCOC Act. In this view of the matter, there is no impediment in granting bail to the applicants.

6. Hence, the following order :

ORDER

- (i) In connection with C.R. No. 352 of 2017 registered with Pimpri Police Station, applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.1,00,000/- each (Rupees One Lakhs each Only) with one or two sureties each in the like amount.
- (ii) Both the applications stand disposed of accordingly.
- (iii) The Criminal Application is also disposed of as such.

(SARANG V. KOTWAL, J.)