

Anand

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

BAIL APPLICATION NO. 577 OF 2019

Mehrunisa Shadab Sayyed @ Sonia .Applicant

Vs.

The State of Maharashtra .Respondent

Ms Mansha Khemka a/w Ms Bhagyashree Upadhyay i/b. Khemka &
Associates, Advocate, for the Applicant

Mr. V. V. Gangurde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.07.2019

P.C.

. Heard learned counsel for the Applicant.

2. By this Application, the Applicant seeks her enlargement on bail in connection with C. R. No. 136 of 2017 registered with the Sanpada Police Station, Navi Mumbai, for the alleged offences punishable under Sections 380, 401, 411, 414, 454, 457, 465, 467, 468, 471, 473, 120B r/w 34 of the Indian Penal Code and under Sections 3(1) (2), 3(3), 3(4) of the Maharashtra Control of Organized Crime Act (for short 'M. C. O. C. Act').

3. Perused the papers. The Applicant is the sister of the main accused – Hajid Ali Mirza (original accused No. 4), who is the head of the alleged organized crime syndicate. The only allegation qua the Applicant is that the main accused i.e. her brother - Hajid Ali Mirza gave her certain gold ornaments, looted by the co-accused, for hiding. It appears that the said gold ornaments have been recovered from the present Applicant. This the only allegation against the Applicant. The Applicant has no antecedents. Investigation is complete and charge-sheet is filed.

4. Learned APP does not dispute that this is the only allegation against the Applicant. Learned APP has filed an Affidavit of Amol Bhausaheb Zende, ACP, Turbhe Division, Navi Mumbai.

5. Perused the papers. According to the Complainant – Smt. Seema Kumari, Bank Manager of Bank of Baroda, after completion of the work of the Bank on Friday i. e. 10.11.2017, she closed the Bank at 7.30 p. m. and after closing the main gate, she went home. Saturday and Sunday were Bank holidays. On Monday, i. e. 13.11.2017, the Complainant instructed her colleague Venkat Nanaji Vartam that she would be reaching the Bank late and gave the keys of the Bank to Rohit.

Accordingly, the Bank was opened at 9.45 a. m. On entering the strong room of the Bank, the big locker containing cash and lockers of Bank customers were found to be empty. It appears that when the Bank officer visited the strong room, they found that one tunnel was dug and that jewellery and cash was stolen from the said strong room. During the course of investigation, all the accused were arrested including the Applicant and later, M. C. O. C. Act was applied. As far as the Applicant is concerned, there is recovery of gold under Section 27 of the Evidence Act given by co-accused – Hajid Ali Mirza. Prima facie, it is doubtful whether the Applicant would be guilty of the offence under the M. C. O. C. Act.

6. Considering the material on record qua the Applicant, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 50,000/-** with one or two local solvent sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the first Saturday of every month between

10.00 a. m. and 11.00 a. m. till the conclusion of the trial;

(iii) The Applicant shall inform her latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The Applicant shall cooperate with the conduct of the trial;

(v) The Applicant shall attend the trial Court on every date, unless exempted by the trial Court;

(vi) The Applicant to file an undertaking with regard to Clauses (ii) to (v), in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits,

in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)