

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1817 OF 2019

Laxman @ Lucky Baburam Dhotre	...Applicant
V/s.	
The State of Maharashtra	Respondents

Smt. Sushma T. Mishra, Advocate for the applicant.

Mr. Ajay Patil, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Order reserved on : 18.11.2019.

Order pronounced on : 20.11.2019.

P.C. :

1. The applicant is seeking his enlargement on bail in Crime No. I-20/2017 registered with Narpoli Police Station for the offences punishable under Sections 307, 323, 504, 143, 147 to 149 of the Indian Penal code. Subsequently, provisions of Section 3(1), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ("MCOC Act" for short) were applied.

2. The learned Counsel for the applicant submits, the role attributed to the present applicant is that, he allegedly caught hold the injured victim and facilitated the co-accused, Saddam to assault Navneet Jha (injured) by chopper. This allegation has surfaced in the statement of the injured, Navneet Jha and Vijay Rajendra Kambli. It may be stated, similar role has been attributed to one, Suman Jha as could be seen from the statement of injured, Navneet Jha.

3. The learned Counsel for the applicant has pointed out that, Suman Jha has been released on bail by this court on 31st January, 2019 in Criminal Bail Application No. 3094 of 2018. Counsel further submitted, complainant, Sunil Rajbhor has not attributed role to the applicant and invited my attention to the chargesheet. I have perused the same, wherefrom it appears, complainant, Sunil Rajbhor had also inflicted fist blows on the injured, Navneet Jha. Prima-facie, the alleged

incident arose on account of rivalry inter-se members of organised crime. The Investigating Officer therefore concluded, complaint was filed by Sunil Rajbhor by projecting false facts and to create a defence.

5. The learned APP has relied on the statement of the applicant recorded under Section 18 of the MCOC Act and submits that, at this stage, the statement of the applicant under Section 18 of the MCOC cannot be overlooked. He submits, this statement supports the charge under the MCOC Act. However, it is pointed out, the applicant has retracted the confession, on the same day before the Chief Judicial Magistrate, and therefore confession is of no assistance to the prosecution.

7. Thus, taking into consideration, the facts of the case, the nature of accusations, the role attributed to the applicant and the fact that co-accused, who has been attributed the same role, has been released on bail, there is no impediment in

granting bail to the applicant inspite of the rigors of Section 21(4) of the MCOC Act.

8. Hence, I pass the following order :

ORDER

(i) The Bail Application is allowed.

(ii) The applicant in Crime No. I-20/2017 registered with Narpoli Police Station is directed to be released on bail on his furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like amount.

(iii) The applicant shall attend the Narpoli Police Station, Bhiwandi, District-Thane in a month on first Monday between 11 to 1 p.m. till further orders.

(iv) The applicant shall furnish the particulars of his latest place residence and mobile contact number and/or change of residence or mobile details, if any, to the Investigating Officer of the

Police Station concerned within seven days from today;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(vi) The applicant shall not enter within the jurisdiction of Narpoli/Bhiwandi Police Station, District-Thane.

(vii) The Bail Application stands disposed off.

9. The parties to act on authenticated copy of this order.

(SANDEEP K. SHINDE, J.)