

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

**CRIMINAL BAIL APPLICATION NO. 1793 OF 2018
(THROUGH JAIL)**

Yusuf Bachakhan @ Yusuf Suleman Khadri
S/o Suleman Khadri Reg

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Abhishek Yende, *amicus curiae* for the Applicant (Appointed).

Mrs. P.P. Shinde, A.P.P. for the Respondent-State.

Mr. Laxmikant N. Salunke, A.P.I. Property Cell, D.C.B., C.I.D. Mumbai is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 18th SEPTEMBER, 2019.

P.C. :

1 Heard learned counsel for the parties.

2 By this application sent through jail, the applicant seeks his enlargement on bail in connection with C.R. No. 48 of 2015 registered with D.C.B., C.I.D., Mumbai (initially registered with the Nagpada Police Station, Mumbai vide C.R. No.142 of 2015), for the alleged offences punishable under Sections 387,120-B, 465, 471 read with 34 of the Indian Penal Code and under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Organized Crimes Act ('MCOC Act').

3 Learned *amicus curiae* submits that the applicant seeks bail on the ground of parity. He submits that the applicant stands on a better footing than that of other co-accused, who have been released on bail. Learned counsel relied on the orders of this Court granting bail to co-accused - Faizal Wadgama, Parvez Ahmed Sheikh, Tarique Siddique and Abdulla Ahmed Zakeria Sait @ Baba. He submits that admittedly, the applicant was not involved in the commission of the offence and that the applicant was in jail when the alleged offence was committed.

4 Learned A.P.P. has filed an affidavit of Mr. Laxmikant Narayanrao Salunkhe, Assistant Police Inspector attached to the Property Cell, Detection Crime Branch C.I.D., Mumbai. She does not dispute the fact that the applicant was in jail when the incident took place. She fairly concedes that, the role of the applicant is similar to that of the other co-accused who have been released on bail.

5 Perused the papers. The only material as against the applicant is the confessional statement of co-accused-Parvez Sheikh recorded under Section 18 of the MCOC Act. Admittedly, the applicant was in custody in the Mysore jail at the time of incident. It is alleged that the other co-

accused had approached the applicant in Mysore jail for settling the matter with Ravi Poojari. Similarly placed co-accused have been released on bail.

6 Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing P.R. Bond in the sum of Rs. 15,000/- with one or two local sureties in the like amount;
- (ii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The applicant shall inform his latest place of residence and mobile contact number 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 to co-operate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- (v) The applicant shall file an undertaking with regard to

clauses (ii) to (iv) in the trial Court, within two weeks of his release;

(vi) If there are two consecutive defaults either 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 accordingly disposed of.

8 Registry to communicate the aforesaid order to the Office of the Chief Superintendent of Central Prison, Ashoka Road, Mysore – 570007 forthwith. The Chief Superintendent of Jail, Central Prison, Ashoka Road, Mysore to communicate the aforesaid order to the applicant so as to enable him to take appropriate steps.

9 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.

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

REVATI MOHITE DERE, J