

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

CRIMINAL BAIL APPLICATION NO.2091 OF 2018

Shubham @ Vicky Vitthal Jadhav Applicant

Versus

The State of Maharashtra Respondent

- Mr. Aniket U. Nikam for the Applicant.
- Ms. S. S. Kaushik, APP for the State/Respondent.
- Mr. S. N. Pawar, Khandala Police Station, Dist. Satara, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 12th JUNE, 2019

P.C. :

1. The Applicant is seeking bail in connection with C.R.No. I 595 OF 2017 registered with Shikrapur Police Station, Dist. Pune.
2. The offence was registered under sections 394 and 120B r/w.34 of the Indian Penal Code. Subsequently, Section 3(1) (ii), 3(4) of The Maharashtra Control of Organized Crime Act, 1999 (hereinafter referred to as MCOC Act for short) were added.
3. The investigation is already over and chargesheet is

filed. The applicant was arrested on 29/11/2017 and since then he is continuously in custody. The FIR in this case is lodged by one Mohsin Tamboli. According to him, he was working as Cash Executive with Redient Cash Management. His job was to collect the cash from different outlets and to deposit it with different banks. On 20/11/2017, in the morning at about 9.00a.m. he had collected Rupees more than 15 lakhs from different outlets. He was going towards Shirur side. Near Shikrapur Maldag cross road two unknown persons intercepted him. They took away the bag containing cash by showing knife. One of them inflicted blow with knife on his chest. The first informant had seen those culprits. He lodged the F.I.R. in the police station vide C.R.N.595/17, as mentioned earlier. The investigation was conducted. During the course of investigation nine accused were arrested. Identification parade was held to enable the first informant to identify the suspects. The identification parade was held on 30/12/2017 at Yeravada Jail, Pune and in the same parade the first informant identified accused Sachin Rakshe and Nandlal Hole as two persons who had committed robbery. The applicant was arrested on

29/11/2017. On that day the police had received a secret information, on the basis of which a Scorpio jeep was intercepted. The present applicant along with three other accused were traveling in the said vehicle. He was found in possession of Rs.40000/ in cash. The applicant and others were arrested and cash amount found with them was seized. In the entire chargesheet that is the only material against him. During the course of investigation on 23/12/2017, prior approval U/s.23(1) (a) of MCOC Act was granted to apply the provisions of that Act. In the proposal the antecedents of the accused are mentioned. Against the present applicant only present C.R.No.595/17 of Shikrapur police station is mentioned.

4. The prosecution case is that, the crime syndicate was headed by main accused No.1 Shubham @ Vicky Vitthal Jadhav. Against him five other offences are registered, cognizance of which was taken by the competent courts. Apart from him, accused No.8 had one more offence besides the present offence against his name. The prosecution case is that, in furtherance of the object of crime syndicate headed by Shubham Vitthal Jadhav this offence

was committed.

5. After application of MCOC Act the confession of two accused were recorded U/s.18 of that Act. One of them was of Abhijit Kisan Shinde and other was of Balvir @ Balu @ Maharaj Savleram Shinde. Both statements are identical and make interesting reading for the purpose of deciding this application. Both the statements mentioned that on 20/11/2017 these two accused met Shubham Vishnu Jadhav and they went to Chakan chowk, Shikrapur. They went to a ground where six boys had already reached in a Scorpio jeep. One of them allegedly was the present applicant and those statements mentions that he himself gave his introduction to the other accused. Similarly, other accused also introduced themselves to the applicant. After that, accused Abhijit gave his motorcycle to Sachin Rakshe and Nandlal Hole, who left the space. It was 10.30a.m. at that time. Till 2.00p.m. they did not return. Therefore, accused No.1 Shubham Vishnu Jadhav took all of them to Ranjangaon. One of the accused contacted Rakshe and Hole and asked regarding their whereabouts. Those two called others to a particular place. When

the other accused met them, those two i.e. Rakshe and Hole were carrying a bag.

6. Apparently, between that time i.e. 10.30 to 2.00p.m. Rakshe and Hole had committed robbery, which is the subject matter of the present offence.

7. Thereafter investigation was completed. The sanction U/s.23(2) of MCOC Act was obtained on 15/05/2018 and the chargesheet was filed.

8. I have heard Shri. Aniket Nikam, learned counsel for the applicant and Ms. S. S. Kaushik, learned APP for the State. Shri. Nikam submitted that the offence against the present applicant is not made out and he is falsely and wrongly implicated in the present offence. He submitted that the applicant was arrested subsequently when he was travelling with others and recovery of Rs.40000/- cannot be connected with the alleged offence. He further submitted that no offence under MCOC Act is made out against the applicant.

9. On the other hand, learned APP submitted that the applicant was found with cash amount which was part of the

amount which was robbed from the first informant. The applicant was a member of an organized crime syndicate and, therefore, considering S.21(4) of MCOC Act, applicant is not entitled to be released on bail.

10. Considering all these aspects, I agree with the submissions of learned counsel Shri. Nikam that there is hardly any material against the present applicant to attract the provisions of IPC, much less, provision of MCOC. Act. The confessional statements recorded U/s.18 of the MCOC Act speak for themselves. They, in fact, show that the present applicant got acquainted with the rest of the accused on the date of incident itself in the morning, therefore, obviously he could not be a part of organized crime syndicate. The confessional statements also indicate that the offence was committed by two accused i.e. Rakshe and Hole of which others were not aware, therefore, it cannot be said that the particular offence was committed which was in continuation of activities of an organized crime syndicate. The story of the prosecution is specific and based on the evidence of identification parade, it is the prosecution case that Rakshe and Hole had robbed

the first informant. The applicant was arrested after about nine days with cash amount of Rs.40000/-, that time he was traveling with some other accused. However, the cash amount cannot be directly connected with the amount which was taken away from the first informant.

11. Thus, there is no material to suggest that the present applicant has committed any offence under the MCOC Act, therefore, there is no impediment in granting bail to the present applicant. Considering all these aspects and the nature of evidence, I am inclined to grant the bail to the present applicant.

12. Hence, the following order :

ORDER

- (i) In connection with Crime No.I 595 of 2017 registered with Shikrapur Police Station, Pune the applicant is directed to be released on bail on his executing PR bond in the sum of Rs.50,000/- (Rupees Fifty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)