

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2368 OF 2018

Mohd. Jamil Akhtar

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Sandeep Mishra for the Applicant.

Ms. J.S. Lohokare APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 22nd MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure read with Section 3 (4) of the Maharashtra Control of Organized Crimes Act, 1999 (for short, "*the MCOC Act*") for bail in CR No. I-137 of 2017 dated 19th April, 2017 registered with Naupada Police Station, Thane under Sections 399, 400, 401, 402, 120(B) of the Indian Penal Code and under Sections 4, 25 of the Arms Act and under Sections 3(1)(ii), 3(2), 3(4) of the MCOC Act, now culminated into Special MCOC Case No. 21 of 2017 pending on the file of learned Special Judge, MCOC Thane.

2 Heard the learned counsel appearing for the Applicant and

the learned APP. Perused the charge-sheet.

3 The learned counsel for the Applicant submitted that, there is no material on record to indicate that the Applicant is the head of organized crime syndicate. He further submitted that, the co-accused have been released on bail by this Court and therefore, the Applicant is entitled to be released on bail on the ground of parity. He further submitted that, the provisions of MCOC Act have been wrongly applied to the present case and therefore, the Applicant be released on bail.

4 A perusal of charge-sheet would indicate that, the Applicant is the head of organized crime syndicate. The said organized crime syndicate is indulging into the offences of robbery and decoity. The sanction accorded by the Competent Authority under Section 23 (2) of the MCOC Act aptly makes the said fact clear. There are more than three charge-sheets filed against the Applicant wherein, the punishment for the offences is more than three years and the Court of the competent jurisdiction has already taken a cognizance of it.

Apart from the said fact, there is a confessional statement of the Applicant on record, which elaborate the modus-operandi of the

Applicant. There is sufficient material available on record to show the clear complicity of the Applicant in the present crime.

5 In view of the decision of the Supreme Court in the case of *State of Maharashtra Vs. Vishwanath Maranna Shetty*, reported in (2013) 1 SCC (Cri.) 105= (2012) 10 SCC 561, it is difficult for this Court to arrive at the conclusion that the Applicant is not *prima facie* guilty for an offence under the MCOC Act.

I find no merit in the Application, Application is accordingly rejected.

(A.S. GADKARI, J.)