

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2741 OF 2018

Sharad Rambhau Mohol	..Applicant.
V/s.	
The State of Maharashtra	..Respondent.

CRIMINAL BAIL APPLICATION NO.2742 OF 2018

Amit Bhausahab Pokale	..Applicant.
V/s.	
The State of Maharashtra	..Respondent.

Mr.Jayant J.Bardeskar for the applicant in both the applications.

Ms.S.S.Kaushik, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 31, 2019

P.C.:-

Heard learned counsel for the applicants and learned APP for the State.

2. In crime No.119/2015 for offence punishable under sections 364, 365, 385, 395, 117 read with 34 of the Indian Penal Code and sections 3(1)(ii), 3(2) of the Maharashtra Control of

Organized Crimes Act, 1999 ('MCOCA' for short) registered with Saswad police station, Pune, the applicants are seeking regular bail.

3. The applicants were arrested in the aforesaid crime on May 4, 2015.

4. The prosecution case against the applicants is, on May 4, 2015 Meera lodged a complaint that on May 2, 2015 co-accused Amol, through her son-in-law Amar informed about the desire to get married to Divya daughter of Meera and that Amar and Meera were called upon to attend the marriage, for which threats were issued to her. The first informant accordingly informed about the incident to Amar on May 4, 2015 that accused Amol had come along with 10 to 12 persons.

5. Sachin, who happened to be the nephew of complainant Meera was in the meantime kidnapped by accused Amol so as to facilitate his marriage with Divya, daughter of the complainant.

6. So far as co-accused Amol is concerned, there was some transaction between him and the complainant when he was in custody in some other matter. It is the case of the prosecution that accused Amol helped her to prosecute her cause including her enlargement on bail in said offence.

7. As Amol with 10 to 12 persons kidnapped Sachin, as

narrated above, the complainant raised complaint with police, as such Sachin was rescued.

8. The role attributed to the present applicants is, the applicants, accomplice of Sachin, were arrested on the spot of incident along with accused Pravin Popat Shelar.

9. In the aforesaid backdrop, since the applicants are members of a syndicate, who are indulging in continuous unorganized unlawful activities, the provisions of MCOCA are invoked against them.

10. In the aforesaid background, the submissions of learned counsel for the applicants is, once co-accused Pravin Popat Shelar, who was also apprehended along with the applicants and is similarly placed, was ordered to be released on bail by this Court on February 8, 2017 in Bail Application No.1231 of 2016, the applicants are also entitled to be released. According to him, the involvement of the applicants is shown to be on false pretext. Learned counsel for the applicants submit that, but for involvement of the applicants in one single offence that too with limited role, there is no adverse material on record to infer the involvement of the applicants in continuous unlawful activities being members of crime syndicate.

11. *Per contra*, learned APP based on the affidavit of the investigating officer pointed out that against a gang of which the applicants are members, there are six offences registered. Learned APP then would urge that even though there is only one substantive offence against the applicants, there appears to be an active participation in the crime and that being so, the applications are liable to be rejected.

12. Having appreciated the submissions, what is required to be noted from the investigation papers is the test identification parade was conducted by the Executive Magistrate on June 25, 2015 in which co-accused Pravin Popat Shelar was not identified whereas, the present applicants were duly identified by witnesses in the test identification parade as is borne out from the extracts in regard to the same. As such, the applicants cannot claim parity with that of co-accused Pravin Popat Shelar who was ordered to be released on bail on February 8, 2017.

13. In view of above, no case for grant of bail is made out. Both the applications fail and stand rejected.

(NITIN W. SAMBRE, J.)