

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO.2936 OF 2017**

Mangesh Shyam Satpute .... Applicant  
Versus  
The State of Maharashtra .... Respondent

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- Mr. Satyavrat Joshi for the Applicant.
- Mrs. A. A. Takalkar, APP for the State/Respondent.
- Mr. Niranjan Mundargi, Amicus Curaie is present.

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**CORAM : SARANG V. KOTWAL, J.  
DATE : 12<sup>th</sup> JUNE, 2019**

**P.C. :**

1. The Applicant is seeking regular bail in connection with C.R.No. I 333 OF 2016 registered with Khadak Police Station, Dist. Pune, under sections 364A, 387, 323, 506 and 506 r/w. 34 of I.P.C., under sections 3 and 4 r/w.25 of Indian Arms Act, and under section 37(1) r/w. 135 of Maharashtra Police Act. Subsequently provisions of Maharashtra Control Organised Crime Act, 1999 (hereinafter referred to as MCOC Act for short) are applied and Section 3(i)(ii), 3(2) and 3(4) of MCOC Act are applied.

2. The investigation in this case is over and chargesheet is filed. The applicant is arrested on 29/11/2016 and since then he is

in custody.

3. The FIR in this case is lodged by one Asif Shaikh on 28/11/2016. In his FIR he has mentioned that he was knowing the present applicant since childhood. The first informant had construction business and he was developer of real estate. He has mentioned in his FIR that shortly before festival of Eid the present applicant and others had approached him and had abused him. They had demanded Rs.10 lakhs for helping one Janglya in his court case. For that he had not given any complaint to the police immediately, however, after Eid he had made one written complaint to the Police Commissioner, for which inquiry was going on. On 28/11/2016 at about 6.30p.m. he had gone to survey No.58,59 and 60 at Ghorpade. At that time, six persons came on three motorcycles. They forcibly took him at the point of weapon to a different place on their motorcycle. The first informant was taken to Dhobighat. At that place one Shankar Koli and the present applicant were present. The applicant held pistol at the head of first informant, others brought out sickle and sword. All of them threatened and demanded Rs.10 lakhs. The first informant told

them that he would pay Rs.3 lakhs on the next day and on that promise rescued himself. After going home he approached the police station and lodged F.I.R. The FIR was registered in the police station as mentioned earlier. The investigation was carried out and the applicant was arrested on 29/11/2016. During the course of investigation, statements of various witnesses were recorded. The statements of witnesses Tanvir, Ashok, Yuvraj and Aniket were recorded. They narrated about the first part of the incident when first informant was forcibly taken on a motorcycle. The charge-sheet also shows the recovery of pistol and cartridges from his house at the instance of the applicant. On 13/12/2016 approval was granted to apply provisions of MCOC Act and investigation was carried out under the provisions of that Act. The prosecution case is that the applicant was a member of an organised crime syndicate headed by main accused Shankar Koli against whom many offences are pending and the present offence was in furtherance of activities of that crime syndicate.

4. Heard learned counsel Shri. Satyavrat Joshi for the applicant and Mrs. A. A. Takalkar, APP for the State. Shri. Joshi

submitted that the applicant is falsely implicated. The present FIR is an attempt on the part of the first informant to involve the present applicant in a serious offence. He invited my attention to the application made by the first informant to the Home Minister in respect of an incident dt.24/05/2016. In the said incident the first informant was called to the police station. One of the police officers had called the applicant to the police station and in the presence of police officers, the applicant had threatened the first informant. Shri. Joshi submitted that the tenor of this application shows that the present applicant was not known to the first informant. He also invited my attention to another complaint made by the same first informant on similar allegation that the applicant was demanding Rs.10 lakhs. This complaint was given to the Joint Commissioner of Police, Pune City on 30/07/2016. He submitted that thus, first informant was in habit of lodging false complaints against the applicant. He further submitted that it is unbelievable that the police officers would in connivance with the present applicant indulge in threatening the first informant. He also submitted that the provisions of MCOC Act are wrongly

applied as there is only one previous charge-sheet is pending against the present applicant, on the basis of which competent court has taken cognizance. He submitted that there is false allegation of demand of extortion money against the present applicant.

5. On the other hand, learned APP submitted that the offence is serious. S.364A provides death penalty, provisions of MCOC Act are applied and there is bar U/s.21C of the said Act to grant the bail to the present applicant.

6. I have considered the rival submissions. The allegations in the FIR are supported by four eye witnesses in respect of the first part of the incident. Thus, there is corroboration to the story of the first informant. The submission that first informant possibly was not knowing the present applicant cannot be accepted in view of the fact that since the previous incidents he was aware of the identity of the present applicant. In the FIR itself he has mentioned that he was knowing the present applicant. At this stage, there is no reason to disbelieve the story of the present first informant that he was knowing the applicant since much

before the incident.

7. The recovery of weapon and cartridges at his instance is another corroborating piece of evidence supporting the prosecution case against the present applicant. At this stage, it is not possible to discard that evidence. In so far as, the provisions of MCOC Act are concerned, the affidavit of I.O. and other documents show that the organized crime syndicate was headed by Shankar Koli against whom many offences were registered. This particular offence was committed for pecuniary gain and to establish supremacy in the area by collecting money from innocent citizens. Hence, the provisions of MCOC Act are also properly applied. Considering all these aspects, no case is made out to grant anticipatory bail. Hence, application is rejected.

8. Before parting with this order there is one more aspect which needs to be dealt with. In the past, this court had passed order directing inquiry in respect of complaints made by the first informant regarding the high handed behaviour on the part of the police officers which amounted to criminal offences. This court by a previous order directed inquiry into those incidents. The report

of the inquiry is produced before this court. Even after that report this court (Coram: A. S. Gadkari, J.) had observed that the report was not satisfactory and it was prepared by the inquiry officers only to extend courtesy to their colleagues. Thus, this court has expressed dissatisfaction in the manner in which the inquiry is conducted. This report is already on record. Since I am dealing primarily with the question of grant or refusal of bail, I have already passed order in that behalf. However, the report and the observations of this court made previously cannot be ignored. In my considered view, it would be proper if these facts are brought to the notice of the first informant and if liberty is granted to him to prosecute his legal remedies on the basis of this. It would meet ends of justice. Therefore, I.O. is directed to serve copy of the inquiry report, as well as, all orders passed by this court previously in this application including the present order on the first informant. The first informant is specifically given liberty to pursue all his legal remedies as are available to him in law. With this direction, the application is disposed of.

**(SARANG V. KOTWAL, J.)**