

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

CRIMINAL BAIL APPLICATION NO. 520 OF 2019

Navin Satyawar Malik	...	Applicant
Vs.		
The State Of Maharashtra	...	Respondent

Ms.Angana Sarmah i/b. Mr.Diwakar Singh for Applicant.
Mr.A.R. Kapadnis, APP for Respondent-State.

CORAM : A.S. GADKARI, J.
DATE : 3rd March 2020.

PC. :

1] This is a successive application for bail. The earlier application for bail (Bail Application No. 2943 of 2017) preferred by the applicant was rejected by this Court by a Speaking Order dated 4th July 2018. The applicant had challenged the said Order before the Hon'ble Supreme Court by way of Special Leave Petition (Criminal) Diary No.40324/2018. The Hon'ble Supreme Court on 20th November 2018 passed the following Order :-

“Delay condoned.

Learned counsel submits that his client is behind the bars for more than three years.

We, therefore, direct the concerned trial court to take up the matter and consider whether the charges need to be framed in the matter or not.

The petitioner may move an application for bail only after that stage.

*We have not expressed any opinion on the merits of the case.
Hence, the special leave petition is dismissed.
Pending applications, if any, shall also stand disposed of.”*

2] In pursuance of the Order passed by the Hon’ble Supreme Court, the applicant preferred the present application for bail on 31st January 2019 in this Court. As the prosecution did not frame charges against the applicant/accused persons in the present case till then, this Court by its Order dated 21st August 2019 adjourned the matter sine-die.

The present application is moved after framing of charges by the Trial Court by the applicant.

3] Heard Ms.Sarmah, learned counsel for the applicant and Mr.Kapadnis, learned APP for the respondent-State. Perused the record.

4] Learned counsel for the applicant submitted that, the applicant is in jail for about four years. That there are no antecedents at his discredit. She submitted that, there is no material to indicate his active participation in the crime. She further submitted that, there are about 29 witnesses in the present case and it may take substantial period to complete the trial. She therefore prayed that, the applicant may be released on bail.

5] At the outset, it is to be noted here that, the applicant is an accused in a crime with an allegation that, he along with other accused committed robbery in a running train in the wee hours of 4th August 2015 with the use of firearms. The first informant and other witness, who are victims in the case

have identified the applicant as the person who threatened them with a pistol on 4th August 2015 in the Konkan Kanya Express near Panvel Railway Station. The record indicates that, the applicant is a member of an Organized Crime Syndicate headed by James Almeda @ Sam, who is indulging into committing robberies in running trains. It appears that, it is their specialization in the field of crime. The provisions of the Maharashtra Control of Organized Crime Act, 1999 (for short, "M.C.O.C. Act") are applied to the present crime i.e. C.R. No. 55 of 2015 registered with Panvel Railway Police Station under Section 395, 397 and 120-B of the Indian Penal Code and under Section 3 and 25(c) of the Arms Act. There is more than sufficient material available on record to indicate the clear complicity of the applicant in the present crime. In view thereof, it is very difficult for this Court to record a *prima-facie* finding that, the applicant is not guilty of an offence as contemplated under Section 21(4) of the M.C.O.C. Act and therefore, the applicant cannot be released on bail.

6] As the applicant is in jail for more than four years, the learned Additional Sessions Judge-2, Thane, seized of M.C.O.C. Case No. 04 of 2016 is hereby requested to expedite the hearing of the said case and as far as possible to conduct it on day-to-day basis.

7] Application is accordingly rejected with aforesaid direction.

[A.S. GADKARI, J.]