

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

CRIMINAL BAIL APPLICATION NO. 2107 OF 2019

Rahul Rameshwar Sarvale

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Aniket Nikam i/b Vivek N. Arote, Advocate for the Applicant.
Smt. Veera Shinde, APP for the state-respondent.

Mr. Dattatray Laxman Tondale, ASI, Mangalvedha Police Station,
Solapur, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 14th January, 2020

PC :

1. The Applicant is seeking his release on bail in connection with C.R.No.139/18 registered with Mangalvedha Police Station, Solapur, under sections 395, 308, 353, 115, 189, 504, 506 of the Indian Penal Code, (for short IPC) under sections 4 r/w 25 of the Arms Act, Sections 9 and 15 of Environment Protection Act, under sections 3(1)/181, 130/177 of Motor Vehicle Act and under sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act (MCOCA).

2. The Applicant is arrested on 24/04/2018. Approval was granted for applying provisions of MCOC Act. Investigation was

completed. Sanction accorded. Charge-sheet is filed.

3. The FIR in this case is lodged on 23/04/2018 by Police Constable Suresh Lamjane. It is alleged that Superintendent of Police, Solapur, received information that Ravindra @ Papulya Kole and Prithviraj Bhosale along with others were excavating and committing theft of sand from river Bhima. Superior police officers arranged to a raid. Panchas and Police party got ready for conducting raid. On 23/04/2018 at about 04.30 a.m. police party reached Siddhapur. On the way to Bhima river they noticed some persons loading sand in tractor. They found tempo parked nearby loaded with sand. The raiding party members asked persons loading tempo their names. They save named as Rahul Rameshwar Sarvale and Samadhan Bharat Sarvale. At that time, the raiding party saw tractor coming from the river side. The tractor and the trolley were intercepted. At that time 10 to 12 persons came and stopped tractor and trolley. One of was shouting that till today nobody could cause harm to Ravindra Kale. He instigated Sachin to take out weapon and assault all police. And kill others. He also instigated that he should drive tractor on persons police. They took away the tractor and trolley along with one brass sand. The persons who were arrested were asked about the identities of the persons who ran away. Ten names were given by the arrested persons, including name of

applicant. The tempo owner was one Prithviraj Bhosle. It was informed that the sand was collected by Ravya Kale. On this basis, the FIR is lodged.

4. The investigation was carried out and on 01/05/2018 the approval to apply provisions of MCOCA was granted. It was the case of the prosecution that organized crime syndicate was headed by one Ravindra @ Papulya Rama Kale. He was involved in various offences like culpable homicide, dacoity, theft etc. The approval was granted against 13 persons including the present Applicant. There was one offence shown pending against the Applicant u/s 379 of IPC vide C.R.No.84/18 at Mangalvedha Police Station. The charge-sheet contains statements of Panchas and the police officers who were members of the raiding party viz. API Sandip Parmeshwar Dhande, PHC Ankush Vasant More, PN Amrut Rohidas Khedkar, PC Amol Tukaram Jadhav, PC Abhijit Digambar Thanekar etc. All of them have narrated the incident in the same manner as narrated in the FIR.

5. Learned counsel for the applicant submitted that the applicant was arrested on the spot. There are no other cases against the applicant. He was labourer and was involved in loading the sand in the truck. The provisions of MCOC Act will not be attracted against

applicant. He was not involved in any other cases with the gangster. There is no allegations that he was involved in continuous unlawful activity as member of crime syndicate. The co-accused Sanjay Bhosale who was present at the scene of offence and ran away from the place, is granted bail by this Court vide order dated 14th October, 2019.

6. Learned APP submitted that the applicant was found present at the scene of the incident. He was found loading the truck. The co-accused & mob of several persons reached the place of incident and threatened the raiding party. At the same time they took away the vehicle. Hence, offence was registered under Section 395 of IPC and other penal provisions.

7. On perusal of FIR it appears that the role ascribed to the applicant is that he was loading the sand. The other accused reached the spot and they were intimidating the police party. The other persons took the vehicle. The applicant is neither involved in act of intimidating and or taking away vehicle. There are no other cases against the applicant. While granting bail to the co-accused Sanjay Bhosale. This Court has taken into consideration the fact that the provisions of MCOC Act were applied. One case was registered against the co-accused under Section 379 of IPC. Considering the

factual matrix of this case, there is no material on record to show that the applicant had participated in unlawful activities and indulged in violence as member of crime syndicate and the restrictions under Section 21(4) of the MCOC Act would not prevent from granting bail to the applicant.

7. Hence, I pass the following order.

ORDER

- i) Bail Application No. 2107 of 2019 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R.No.139/18 registered with Mangalvedha Police Station, Solapur, on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iii) The applicant shall report concerned police station once in a month on every first Saturday between 10.00 am. to 12.00 pm. till further order.
- iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)