

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

CRIMINAL BAIL APPLICATION NO.3282 OF 2019

Suresh Baban Pawar

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Priyal G. Sarda, for the applicant.

Smt. Geeta P. Mulekar, APP for the Respondent- State.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th January, 2020

P.C.:

1. The applicant is seeking bail in connection with C.R.No.871 of 2018, registered with Lonikalbhor Police Station, District- Pune, for offences punishable under Sections 307, 387, 212 r/w 34 of the Indian Penal Code ('IPC' for short) and Section 3(25) of Arms Act.
2. The prosecution case is that, on 13th November 2018 two unknown persons came on motorcycle in front of shop of the first informant and pointed gun towards him and threatened him that, if he do not pay money, they will kill him. One of them fired on the first informant but the bullet was missed and hit the statue in the shop. The assailant ran away from the place of incident on motorcycle.

The FIR was lodged. Investigation proceeded. Applicant Nos.1 and 2 were arrested. Thereafter, approval was granted for applying MCOC Act. Investigation was conducted under the provisions of MCOC Act. Sections 3(1) (ii), 3(4) of the MCOC Act were invoked. The applicant was arrested on 12th February 2019. As far as the applicant is concerned the prosecution case is that, he had told his friend Shubham to arrange shelter for accused No. 1 and 2 by stating that, they had domestic problem. On instructions of the applicant they were given shelter by Shubham. The applicant is primarily charged for Section 212 of the IPC.

3. The accused No. 1 and 2 are in custody. The contention of the applicant is that except the allegation that, the applicant had harboured accused Nos. 1 and 2, there is no other evidence. No other case is pending against the applicant. The applicant is not member of crime headed by accused Nos. 1 and 2. There is no material in that regard.

4. Learned APP submitted that, the accused No. 1 and 2 were history sheeter. The applicant knows them. Thus, he had knowledge that, they are habitual offenders. Statement of Shubham and other witnesses show that, the shelter was provided to the accused Nos.1 and 2 at the instance of the applicant.

5. On perusal of the charge-sheet it is apparent that, the only role was assigned to the applicant is that, he instructed Shubham to accommodate accused Nos. 1 and 2, and provide them food. Statement of Shubham was recorded. His statement, or the statement of other witnesses do not indicate that the applicant had knowledge about the fact that, they are involved in present crime. Even Shubham was not knowing about the involvement of the accused Nos.1 and 2. The case of the prosecution is that, the accused Nos. 1 and 2 had threatened complainant and attempt was made to fire at him. The complainant was not injured in the attack. There are no antecedents against the applicant. There is no record to show that, the applicant is a member of crime syndicate and has indulged in any unlawful activity or violence to attract the provisions of MCOC Act. Considering the aforesaid circumstances, case for grant of bail is made out.

ORDER

- (i) Bail Application No.3282 of 2019 is allowed.
- (ii) The applicant is directed to be released on bail in connection with C.R.No.871 of 2018, registered with Lonikalbhor Police Station,

District- Pune, 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 a.m. to 12.00 noon till further order.

(iv) Bail Application No.3282 of 2019 stands disposed of.

(PRAKASH D. NAIK, J.)