

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1796 OF 2019**

Ganesh Ankush Masurkar                      ...     **Applicant**

Versus

The State of Maharashtra & Anr.     ...     **Respondents**

.....

Mr.Ravindra S. Pachundkar with Mr.Dhirendra Takawale, Advocate  
for the Applicant.

Mr.R.PPethe, APP for the Respondent No.1/State.

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**CORAM    : A.M.BADAR J.**

**DATED    : 10<sup>th</sup> JANUARY 2020.**

**P.C. :**

1                      Heard the learned Counsel for the applicant. He argued that the applicant was already released on bail by the learned Magistrate for the offence punishable under Section 395 of the Indian Penal Code and subsequently after invocation of the offence punishable under Section 3(1)(ii) and 3(4) of the Maharashtra Control of Organised Crimes Act, 1999 (hereinafter referred to as “the MCOC Act” for the sake of brevity) the prosecution has applied for cancellation of his bail, but the learned Magistrate was pleased to reject that application. It is further argued that thereafter, the prosecution has filed an application for cancellation of bail granted to the applicant before the learned

Special Judge under the MCOC Act, Pune and that Court was pleased to allow the said application of the prosecution and thereby cancelling the bail granted to the applicant. It is further argued by the learned Counsel for the applicant that there was only one offence registered against the applicant and therefore, provisions of the MCOC Act are not applicable to the case in hand.

2           The learned Additional Public Prosecutor opposed the application.

3           I have considered the submissions so advanced and perused the impugned Order as well as the application for cancellation of bail moved by the prosecution.

4           Initially, the applicant/accused came to be arrested for the offence punishable under Section 395 of the Indian Penal Code and the learned Magistrate was pleased to release him on bail. During the course of investigation, it transpired that the offence was committed by the organized Crime Syndicate and, thereafter by doing necessary compliance, Section 3(1)(ii) and 3(4) of the MCOC Act came to be added in Crime Diary of Crime No.159 of 2016 registered with Rajgad Police Station, Pune Rural. It is not in dispute that the applicant was not released in bail in an offence punishable under the MCOC Act. As such, after invocation of the offences under the MCOC Act, it was necessary for the Investigating Officer to take the applicant in custody in relation to

the offences punishable under MCOC Act. For that purpose, it was necessary for the learned Special Judge to cancel the bail granted to the applicant by the learned Magistrate for the offence punishable under Section 395 of the Indian Penal Code, because of the subsequent development which has come on record. No infirmity, as such, can be found in the impugned Order.

5           The learned Counsel for the applicant has placed on record the Order dated 14<sup>th</sup> October 2019 in **Criminal Bail Application No.949 of 2019** in ***Sanjay Sharanappa Bhosale v. State of Maharashtra*** as well as the Order passed below Exhibit 1 in MCOC Act Miscellaneous Application No.9 of 2017 by the learned Special Judge under the MCOC Act. The instant application is challenging the cancellation of bail of the applicant for the offence punishable under Section 395 of the Indian Penal Code due to subsequent development of invocation of the offences under the MCOC Act and, as such, the Order in the matter of ***Sanjay Sharanappa Bhosale (supra)*** is of no assistance to the applicant.

6           The application is devoid of merit and the same is therefore, rejected.

**(A.M.BADAR, J.)**