

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

LD-VC-CRIMINAL APPLICATION (BA) NO. 7 OF 2020

(Bharat @ Bunty s/o Udaybhan Galbale vs. State of Maharashtra, thr. Special Officer under
MCOC Act, PS, Beltarodi, Nagpur, District - Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri D.V. Chauhan with Shri C.B. Barve, Advocates
for the applicant.

Mrs. M.A. Barabde, APP for the non-applicant –
State.

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CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 06, 2020.

Heard Shri Chauhan, learned counsel for
the applicant and Mrs. Barabde, learned APP for the
non-applicant – State, through video conferencing.

The applicant – Bharat @ Bunty s/o
Udaybhan Galbale, is said to be arrested on
24.07.2019 in Crime No. 182 of 2019 registered at
Beltarodi Police Station, Nagpur, District – Nagpur,
for the offence punishable under Sections 392, 413
read with Section 34 of the Indian Penal Code read
with Section 3(1)(ii), (iii) and (iv) of the
Maharashtra Control of Organize Crime Act, 1999,
(hereinafter referred to as MCOC Act), at the
instance of P. S. Beltarodi, District – Nagpur.

It is the case of the prosecution that
initially, First Information Report came to be

registered for the offence punishable under Section 392 of the Indian Penal Code with the allegation of snatching of chain by the co accused.

During investigation, the incriminating articles came to be seized from the co-accused. The present applicant has been arrayed in the crime on the confessional statement of the co-accused in some other crime, for his role to assist the co-accused in disposing the gold articles. It is alleged that present applicant was goldsmith and he assisted the syndicate to melt/ convert the gold articles in ingot and hence Section 3 of the MCOC Act, came to be added in the crime.

Shri Chauhan, learned counsel for the applicant in his lengthy arguments, mainly focused on the point that there is no continuous unlawful activities on the part of the applicant either individually or as a member of the syndicate and the crime chart against him would reveal that in all the crimes registered in the year 2012, he has been acquitted. He further submits that the other crimes in the chart came to be added after his arrest in the present crime and, as such, the offence punishable under MCOC Act is not attracted against the applicant.

The learned APP appearing on behalf of the State, strongly opposed the application and submitted that the applicant is involved in 13

offences with the gang leader and there is enough evidence to show that the applicant is actively involved in stolen ornaments and converting the ornament into Gold ingots for pecuniary benefits.

I have considered the submissions made on behalf of both sides.

At the outset, without going into the question of applicability of Section 3 of the MCOC Act to the applicant, at this stage, one thing is clear that during the period between 2012 to 2019, there isn't a single charge sheet filed against the applicant. For the charge sheets which were filed in the year 2012, the learned counsel submits that in all those cases, the applicant was acquitted and the State did not prefer any appeal against these judgments and as such on the day of his arrest in the present crime, there was not a single charge sheet pending against him.

Furthermore, the prosecution could not point out from the crime chart that he was involved either in individual capacity or as an active member of the syndicate in any crime during the period between 2012 till his arrest in the present crime wherein MCOC Act has been applied against him.

In the present crime, the applicant is in jail since 24.07.2019 i.e. for more than one year. The investigation is completed and the charge sheet is also filed. Considering the long gap in crime chart,

his period in jail, there is no likelihood that the applicant would commit similar offence while on bail.

In such circumstances, this Court is inclined to allow the application and the same is accordingly allowed, however on stringent conditions. Hence, the following order:

The applicant – Bharat @ Bunty s/o Udaybhan Galbale, be released on bail on executing Personal bond of Rs.50,000/- (Rs. Fifty thousand only) with one surety in the like amount.

The applicant shall not enter the vicinity of the area where the witnesses reside.

The applicant shall not pressurize or issue threats to the witnesses.

The applicant shall not tamper with the prosecution witnesses.

The applicant to attend concerned police station once in a month i.e. on every first Thursday of the month between 12.00 Noon and 2.00 P.M.

The applicant shall supply addresses and mobile numbers of his two near relatives to the concerned police station.

The trial Court shall not get influenced by the observations made in this order, as the same are only for the purposes of deciding the present bail application.

Criminal Application is disposed of

accordingly.

The order be communicated to the counsel for the parties either on email address or on Whatsapp or by such other mode, as is permissible in law.

JUDGE

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