

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

BAIL APPLICATION NO. 1036 OF 2019

Yogesh Balaso Rane	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Niranjana S. Mundargi a/w. Mr. Rushikesh Mohite i/b. Vinaya
G. Padwal for the Applicant.
Mr. S.V. Gavand, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 30th NOVEMBER, 2021.

P. C. :-

1. This is an Application under section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in MCOC Special Case No.143/2020 pending before the Sessions Court, Kolhapur for offences under sections 364(A), 386, 120-B r/w. Section 34 of the Indian Penal Code and under sections 3(1)(ii), 3(2) and 3(5) of the Maharashtra Control of Organized Crime (MCOC) Act, 1999.

2. Heard Mr. Niranjana Mundargi, learned counsel for the Applicant and Mr. S.V. Gavand, learned APP for the State. I have perused the records and considered the submissions advanced by learned counsel for respective parties.

3. The crime against the Applicant was registered pursuant to the

first information report dated 03/05/2018 lodged by Vijay Nivrutti Kamble. The first informant is having a consultancy in the name of Universal Consultancy Services. He renders assistance to the needy and small time businessmen in availing loan from financial institutions and benefits of various government schemes. On 29/04/2018, he received a phone call from an unknown person, who had disclosed his name as Vishal. Said Vishal informed the first informant that his brother was planning to start a business and was in need of money. He agreed to meet said Vishal on 30/04/2018 near Sai Mandir Temple, Kalmba. He has alleged that said person Vishal had told him that he was waiting behind Sai Temple in an Innova Car. Accordingly, the first informant went behind the Sai Temple and one grey colour Innova parked in front of Sadguru Traders shop facing towards Vashi Naka. Some persons were sitting in the said car and the person, who had disclosed his name as Vishal Shinde, was standing outside the car. The said persons told him to sit in the car. Said persons took him to Pachgaon Road. On the way, occupants of the car assaulted him and took his mobile and other belongings and demanded an amount of Rs.25 lakhs. He was forced to call his wife and other relatives to arrange for money. His wife, brother and others arranged for an amount of Rs.70,000/-. After the said amount was paid, the said persons dropped the complainant near Pachgaon.

Based on the said first information report, Crime No.202 of 2018 was registered on 03/05/2018.

4. The Applicant was arrested on 08/06/2018. The Innova car bearing no.MH-09-DM-8760 was also seized on the same date. The prosecution has relied upon statement of one Shabbir Babalal Makandar who had initially stated that he had pledged the said Innova car No. MH-09-DM-8760 to the Applicant as he was in need of money. In his subsequent statement, said Shabbir had alleged that the Applicant had forcibly taken his innova car and had told him to inform the police that he had pledged the car with him as security of loan of Rs.5,00,000/-. The prosecution has also relied upon the statement of one Rickshaw Driver who also claims that he had seen the Applicant and others sitting in the Scorpio Car parked near Sai Mandir. He claims that one person who had alighted from one ST Bus had walked towards the Innova Car which was also parked in the same vicinity. The said persons near the Innova pulled him in the Car and proceeded towards Kalamba Jail. The statement of this witness was recorded after considerable delay.

5. It is to be noted that the Applicant was arrested on 08/06/2018. From the date of his arrest till filing of the charge sheet none of the

witnesses had implicated him in the crime either directly or remotely. They had not identified the Innova car in which the first informant was taken. There is no prima facie material to indicate that the Applicant had received any money, which was allegedly paid by the first informant to the main accused. There is no material on record to indicate that the Applicant was associated with the other co-accused in committing similar crimes. There is no prima facie material to suspect his involvement in the crime. Thus, the material on record does not prima facie indicate that the Applicant was involved in abducting the first informant, assaulting him or demanding money or entering in a conspiracy to abduct the first informant for money.

6. The learned counsel for the Applicant has also placed on record the order dated 15/07/2021 in Criminal Bail Application No.360/2020 wherein this Court (Coram: Smt. Bharati Dangre, J.) on similar facts and circumstances, granted bail to the co-accused – Akash Ananda Aaglave. Since the allegations against the Applicant are similar to those levelled against the co-accused Akash Aaglave, the Applicant is entitled for bail on the principle of parity.

7. Considering the above facts and circumstances, in my

considered view, this is a fit case for grant of bail. Hence, the Application is allowed on following terms and conditions :-

- (i) The Applicant who is facing trial in MCOC Special Case No.143/2020 pending before District & Sessions Court, Kolhapur, is ordered to be released on bail on furnishing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one or two solvent sureties in the like amount.
- (ii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (iv) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

8. Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)