

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

CRIMINAL BAIL APPLICATION NO.199 OF 2020

1. Vinod Ganesh Marsale
2. Sagar Ganesh Marsale ... Applicants

Versus

The State of Maharashtra ... Respondent

.....

Mr. Aniket Nikam i/by Mr. Vivek N. Arote, Advocate for the Appellants.

Mr. R. M. Pethe, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 20th AUGUST, 2021.

PER COURT:

1. This is an application for bail in C.R. No. 88 of 2018 registered with Chalisgaon Road, Police Station, Dist. Dhule for offences under Sections 307, 392, 120-B r/w Section 34 of Indian Penal Code (for short "IPC") and Section 3(25) of the Arms Act. The applicants were arrested on 3rd August, 2018.

2. The case of the complainant is that, he is conducting business of milk dairy at Malegaon Road, Dhule. On 2nd August, 2018 while he was at the dairy, three unknown persons visited his dairy at about 9.10 p.m. Two of them pointed out pistol at him and

SAJAKALI
LIYAKAT
JAMADAR
Digitally signed
by SAJAKALI
LIYAKAT
JAMADAR
Date:
2021.09.02
18:03:08
+0530

demanded cash. They removed the cash of Rs.15,000/- from the cash counter. The employees of the complainant tried to apprehend the accused. One of them fired at the complainant and his staff with an intention to kill them. They managed to avoid firing. All three assailants fled away on motorcycle. Pursuant to registration of First Information Report (for short "FIR") the investigation proceeded. Provisions of Maharashtra Control of Organised Crime Act, 1999 (for short "MCOC Act") were invoked under Sections 3(1)(ii), 3(2), 3(4) of the MCOC Act. On completing investigation, charge-sheet was filed.

3. The applicants preferred applications for bail. Both applications were rejected by separate orders dated 24th June, 2019.

4. Learned Advocate for the applicants submitted that the applicants have been falsely implicated in this case. There is no cogent evidence to show the involvement of the applicants in the crime. The applicants were arrested only on the basis of suspicion. The role attributed to the applicants will not attract the provisions of MCOC Act. The applicants are in custody from the date of arrest. There is no confession under Section 18 of the MCOC Act. There is no direct evidence to connect the applicants with the crime. There is no prima facie material to show that the provisions of MCOC Act are

applicable to the applicants. There is no evidence to show that the applicants are members of any criminal gang or organized crime syndicate and as members conspired with such members of organized crime syndicate and committed crime. Nothing incriminating has been recovered at the instance of the applicants.

5. Learned APP submitted that the applicants are members of organized crime syndicate. There are criminal antecedents against the applicants. They have participated in the present crime. There is strong evidence to show the involvement of applicants in the crime. Test identification parade was conducted on 12th September, 2018 and both applicants were identified. Their complicity is clear from the analysis of CDR. Fire arm was seized from the accused. Statements of witnesses show that the applicants were present at the spot of incident. C.C.T.V. footage from the spot of incident is recovered. The Bullet fired was recovered from the fire arm on the spot. Country made pistol was recovered under panchanama. As per FSL report, bullet was fired from the fire arm recovered from accused No.2. Four cases are registered against applicant No.1. Four cases are registered against applicant No.2. The applicants are involved in the crime with the gang leader.

6. On perusal of the documents on record it is clear that

there is sufficient evidence against the applicants to show their involvement in the offence. Prima facie there is material to show that the applicants are members of crime syndicate. Four similar offences have been registered against them, wherein the co-accused are also involved in those crimes. The applicants were identified in the test identification parade. Statements of witnesses supports the prosecution case. The applicant No.1 is involved in C.R. No. 76 of 2016 registered Azad Nagar Police Station, Dhule for offence under Section 392 r/w Section 34 of IPC. Gang leader Guruarjun Bhalerao is the co-accused in the said case. C.R. No.142 of 2016 was registered with Dhule City Police Station for offence under Section 393 r/w Section 34 of IPC. The gang leader is an accused in the said case. C.R. No.28 of 2014 was registered with Yeola Taluka Police Station, Nashik for offence under Section 392 r/w Section 34 of IPC. The gang leader is also co-accused in the said case. C.R. No. 57 of 2014 registered with Yeola Taluka Police Station, Nashik for offence under Section 379 of IPC. The applicant No.2 is involved in C.R. No.3 of 2020 registered with Pachim Deopur Police Station for offence under Section 392 r/w Section 34 of IPC, C.R. No.4 of 2013 registered with Deopur Police Station, Dhule for offence under Section 392 r/w Section 34 of IPC, C.R. No. 28 of 2014 registered with Yeola Taluka Police Station, Nashik for offence under Section

392 r/w Section 34 of IPC and C.R. No. 38 of 2014 registered with Yeola Taluka Police Station, Nashik for offence under Section 392 r/w Section 34 of IPC. In all these cases Guruarjun Bhalerao (gang leader) is the co-accused. The gang leader is involved in nine cases. All the cases are similar. Thus, there is sufficient evidence to show the involvement of applicants. It is apparent that prima facie there is evidence to show the link with the gangster, indicating that they are members of crime syndicate headed by gang leader. Hence, no case is made out for grant of bail.

ORDER

Bail Application No. 199 of 2020 is rejected and stand disposed of accordingly.

(PRAKASH D. NAIK, J.)