

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

BAIL APPLICATION NO. 410 OF 2020

Pandurang Janardan Sante	... Applicant
Versus	
The State of Maharashtra	... Respondent

**ALONG WITH
BAIL APPLICATION NO. 211 OF 2020**

Ganesh Shripat Mhaskar	... Applicant
Versus	
The State of Maharashtra	... Respondent

**ALONG WITH
BAIL APPLICATION NO. 1002 OF 2020**

Rushabh Jayram Dhumal	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Kazi Mohd. Umar Zubair Ahmed i/b. VBG & Associates, Advocate for the Applicant in B.A. 410 of 2020.

Mr. Sanjeev Kadam i/b. Ms. Vilasini Balasubramanian, Advocate for the Applicant in B.A. No. 211 of 2020.

Mr. Jamshed Ansari, Advocate for the Applicant in B.A. No.1002 of 2020.

Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 18th JUNE, 2021

PER COURT:

1. The applicants in all these applications are seeking bail in C.R. No. I-123 of 2015 registered with Kalyan Taluka Police Station, Thane for offences under Sections 307, 143, 147, 148, 149,

504, 507, 427 & 120 – B of Indian Penal Code (for short “IPC”) and Sections 3(1), 25 & 27 of the Arms Act and Sections 3(1)(ii), 3(2) & 3(4) of Maharashtra Control of Organised Crime Act, 1999 (for short "MCOC Act").

2. The case of the prosecution is that, the complainant Sunil Dhumal in the business of building material supply. He is conducting business in the name of Mahalaxmi Enterprises. Poddar Developers were owners of plot at Mouje Mohili, Tal. Kalyan, bearing Survey No. 40/2, 3, 4 and construction work as well as material supply was given to the complainant. Santosh Gondhali and others had threatened the complainant. On 20th May, 2015, when the complainant and his friends attended Haldi Ceremony at Nandap, Kalyan. While returning they were followed by the accused on motorcycle. Anup Gondhali was on the motorcycle. Ganesh Mhaskar was pillion rider. Jaykumar Bhoir was riding another motorcycle and Mahesh Munna Pal was pillion rider. Their motor cycle was driven by unknown person. Pandurang Sante was pillion rider. Ganesh Mhaskar fired from pistol. Bullet hit the car. Pandurang Sante also fired from pistol. Munna Pal fired at complainant and his friend Pandurang then gave threat on phone. The FIR was registered and investigation proceeded. Charge-sheet was filed.

3. The applicants in Bail Application No. 211 of 2020 namely Ganesh Shripat Mhaskar was arrested on 23rd May, 2015. Applicant Pandurang Janardan Sante was arrested on 22nd June, 2015 and applicant Rushabh Jayram Dhumal was arrested on 16th September, 2019.

4. Learned advocate for the applicants submitted that the provisions of the MCOC Act are not attracted to applicants. Applicants Ganesh Shripat Mhaskar and Pandurang Janardan Sante are in custody for a period of about 6 years. The applicant Rushabh Jayram Dhumal is in custody from 16th September, 2019. The charge of conspiracy has been disbelieved by this Court. No injury was caused to any person. The main accused of whose instance the alleged firing was executed has been granted bail. Munna Pal, who had allegedly fired is granted bail by this Court. It is submitted that the applicants are not involved in any case with Santosh Gondhali - the alleged gang leader.

5. Accused Santosh Balu Gondhali was granted bail by this Court vide order dated 29th September, 2017. The co-accused Mahesh Munna Pal is granted bail by this Court vide order dated 3rd March, 2020. Subsequently, accused Jaykumar @ Aakash Jitendra Bhoir was granted bail by this Court vide order dated 20th January,

2021.

6. Learned APP submitted that the provisions of MCOC Act are invoked in this case. Specific role has been attributed to the applicants. The applicant Pandurang Janardan Sante was attributed role of firing at the complainant by fire arm. Ganesh Mhaskar had fired at the complainant and his friends. Rushabh Dhumal is actively involved in crime. There are criminal antecedents against Pandurang Sante and Ganesh Mhaskar. Cases were registered against Santosh Gondhali. The accused had hatched conspiracy to attack complainant. The involvement of applicants is disclosed in statements of witnesses.

7. I have perused the FIR and the other documents on record. The case of the prosecution is that the applicants were present at the scene of offence. According to prosecution Santosh Gondhali had dispute with the complainant. He is alleged to be the gang leader. Vide order dated 29th September, 2017 as stated herein above he has been granted bail. While granting bail to the said accused it was observed that he was not present at the scene of offence. The allegations against him is that he hatched conspiracy to kill complainant. The prosecution has recorded statement of Ramesh Shelar, who has specifically stated that he had visited the office of

Anup on 18th May, 2015 and that the said co-accused had come to Anups' office. Conspiracy was hatched to kill the complainant. It was further observed that, prima facie the statement of Ramesh Shelar appears to be doubtful inasmuch as the office of Anup was demolished by Municipal Authority on 12th May, 2015 which is evident from the statement of Navnath Kadu, Police Constable whose statement was recorded by the police. The FIR was lodged with Kalyan Taluka Police Station that Anups' office was demolished on 12th May, 2015 pursuant to complaint made by him to the corporation. Thus, while granting bail to Santosh this Court had observed that statement of Ramesh Shelar, who had attributed role of conspiracy to him is doubtful. The other person Mahesh Munna Pal had allegedly fired at the complainant. He has been granted bail by order dated 3rd March, 2020. The case of the prosecution is that, the applicants are members of the gang headed by Santosh. He has been granted bail and in the light of observation made in the order granting bail to the said accused, it is apparent that the statement of the witness on which basis he was impleaded was found to be doubtful. MCOC is invoked in view of involvement of co-accused. The role attributed to Mahesh Munna Pal and the applicant Pandurang Janardan Sante and Ganesh Mhaskar is similar. Santosh Gondhali is the person who hatched conspiracy to kill the

complainant. The applicants who were allegedly members of crime syndicate of main accused need not be detained further in view of bail being granted to Santosh Gondhali. No one was injured in this case. Ganesh Mhaskar and Pandurang Sante are in jail for about 6 years. Rushbh Dhumal is in jail since September, 2019.

8. The involvement of gang leader itself is doubted and the applicants cannot be detained in custody on the ground that they were part of crimes syndicate headed by co-accused. Hence, the embargo under Section 21(4) of the MCOC Act would not cause any impediment in granting bail to the applicants.

9. Hence, I pass the following order :-

ORDER

(i) Bail Application Nos. 410 of 2020, 211 of 2020 and 1002 of 2020 are allowed;

(ii) The applicants are directed to be released on bail in connection with C.R. No. I-123 of 2015 registered with Kalyan Taluka Police Station on executing P.R. Bond in the sum of Rs.50,000/- each with one or two local sureties in the like amount;

(iii) The applicants shall report concerned Police Station once in a month on first Saturday of the month between 10:00 a.m. to 11:00 p.m. till conclusion of trial;

- (iv) The applicants shall inform their latest place of residence and mobile numbers immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer of the concerned Police Station;
- (v) The applicants shall not contact the complainant, witnesses or any person concerned with the case;
- (vi) The applicants shall cooperate with conduct of the trial.
- (vii) Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)