

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

CRIMINAL BAIL APPLICATION NO.890 OF 2020

Pratik Jayesh Yewle

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi, for the Applicant.

Mr. A. A. Palkar, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th SEPTEMBER 2021

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No.59 of 2019, registered with the Paud Police Station, Pune, for the alleged offences punishable under Section 395 of the Indian Penal Code and under Sections 3 (1)(ii) and 3(4) of the Maharashtra Control of Organized Crime Act (MCOC Act).
3. Learned Counsel for the applicant submits that there is no allegation as against the applicant and that the allegations, if any, are false and baseless. He submits that the FIR has been lodged as against unknown

persons and that the applicant has not been identified in the Test Identification Parade (T.I.P), which was held. He submits that there is no recovery at the instance of the applicant nor the applicant's confessional statement recorded under Section 18 of the MCOC Act. He submits that the only material as against the applicant is the confessional statement of co-accused -Kuldeep Valmiki, the gang leader. He further submits that the sanction accorded shows non-application of mind and having regard to the aforesaid, the applicant be enlarged on bail.

4. Learned APP opposes the application. Learned APP has filed an affidavit of Anil Nivrutti Lambhate, Dy. Superintendent of Police, Khed Division, Pune (Rural), Pune, for opposing the application.

5. Perused the papers. According to the complainant – Satyawar Daware, a driver, the incident took place on 9th February 2019, when he was driving a tempo owned by Bismilha Road Transport, Mahad and was driving through the Tamhini Ghat. The complainant has stated that the vehicle was loaded with chemical drums, which were to be delivered at Vishakhapatnam. According to the complainant, the Manager of the said transport Company had given Rs.10,000/- to them towards the expenses likely to be incurred in the journey. The complainant has further alleged

that at about 7:30 p.m. on 9th February 2019, two motor cycles overtook their tempo and that there were two persons each on the said motorcycles. He has further stated that three of them entered the cabin of the vehicle by threatening him and his cleaner and an amount of Rs.10,000/- was taken from them forcibly. Accordingly, the complainant gave the description of the said four persons and lodged an FIR, as against unknown persons. During the course of the investigation, the applicant was arrested. It appears that the applicant was not put up in the T.I.P and hence the question of identifying the applicant would not arise. There is a confessional statement of co-accused – Kuldeep Valmiki, the gang leader, recorded under Section 18 of the MCOC Act, wherein, the said accused has stated in detail the role of the applicant i.e. the applicant was keeping a watch on the traffic on the road, when the offence was committed. It appears from the affidavit filed by the learned APP, that the applicant is a habitual offender and that there are about 9 similar cases registered as against him. Although, learned counsel for the applicant submitted that the sanctioning authority has not applied its mind, the same is a matter of trial.

6. *Prima facie*, considering the material on record, it cannot be said that the applicant is not guilty of the offences with which he is charged and will not commit an offence, if released on bail.

7. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. Hence, the application for bail is rejected and disposed of as such. However, since the case is of 2019, the trial of the applicant is expedited.

8. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.