

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2049 OF 2021

Manjeetkumar Gayaprasad Verma ...Petitioner
vs.
The State of Maharashtra and Another ...Respondents

Mr. Yashpal Thakur i/b. Mr. Sachin Pandey, for the Petitioner
Smt. A.S. Pai, PP for the Respondent-State.

**CORAM : S. S. SHINDE &
N. J. JAMADAR, JJ.**

**DATE : JULY 09, 2021
(THROUGH VIDEO CONFERENCING)**

P.C.:

1. This petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 is filed for seeking the following principal relief.

(ii) “This Court may be pleased to assail the correctness of the application of M.C.O.C. Act after perusing the F.I.R and the remand application filed by the respondent No. 2 as against the present petitioner, and thereafter this Court may be pleased to quash the said F.I.R as against the present petitioner.”

2. Heard Mr. Yashpal Thakur, learned counsel for the petitioner.

3. It was urged on behalf of the petitioner that from the

perusal of the First Information Report bearing No.14 of 2021 registered at Naya Nagar police station for the offences punishable under sections 394, 395 read with 34 of the Indian Penal Code, 1860 and section 3 read with 25 of the Indian Arms Act and section 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act), it becomes evident that no prima facie case is made out against the petitioner and, in any event, the invocation of the provisions contained in MCOC Act, 1999 is wholly unjustifiable. Mr. Thakur, further submitted that the petitioner had preferred an application for pre arrest bail, which came to be rejected by the learned Sessions Judge noting, inter alia, that the provisions of MCOC Act, 1999 are already invoked. The petitioner is thus constrained to invoke the writ jurisdiction of this Court, urged Mr. Thakur.

4. The above numbered F.I.R came to be registered with the allegations that on 7th January, 2021 in a dacoity armed with deadly weapons at M/s. S. Kumar Gold and Diamonds at E/7, Sector-4, Shanti Nagar, Mira Road (E), Thane, gold and diamond ornaments worth Rs. 1,54,29,722/- were looted. Co-accused came to be arrested. Stolen property worth Rs. 54,02,250/- has been

recovered. It transpired that one of the co-accused Sintu Singh has sold the ornaments to the petitioner. During the course of investigation, statement of the witnesses were recorded, which incriminate the petitioner. The material on record, at this stage, prima facie, indicates that there are credible allegations against the petitioner of having received the property stolen in a dacoity.

5. The submission on behalf of the petitioner that, at the highest, the petitioner is the receiver of the stolen property, works out the retribution of the claim of the petitioner that no prima facie case is made out against the petitioner.

6. Mr. Thakur made an endeavour to assail the invocation of the provisions of MCOC Act against the petitioner on the ground that there is no material to indicate that the petitioner is involved in 'continuing unlawful activity'. There are no antecedents attributed to the petitioner to justify the invocation of the stringent provisions of MOCC Act, urged Mr. Thakur. We are afraid to accede to this submission. It is not the requirement of law that every member of organised crime syndicate should have criminal antecedents or that more than one charge sheet for a

cognizable offence punishable with imprisonment for three years or more ought to have filed against each member of the organised crime syndicate.

7. In the aforesaid view of the matter, we are not inclined to entertain the petition.

8. The petition thus stands rejected.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)