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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2904 OF 2021**

BABU BADSHAH MUJAWAR

....Applicant.

V/s

THE STATE OF MAHARASHTRA

.....Respondent

Mr. Tabish Mooman a/w Aditi Katnekar for the Applicant.

Ms. A.A. Takalkar, APP for the Respondent/State.

PSI Sangam S. Patil, Naupada Police Station, present.

CORAM: NITIN W. SAMBRE, J.

DATE: DECEMBER 03, 2021

P.C.:-

1] In January 2021, Applicant was apprehended in Crime No. I-137 of 2017. Provisions of MCOC Act were invoked against the Applicant in 2021 in the background of total 15 members of the gang of which Applicant is a member were involved in execution of organized crimes. Of the 15 members, it is not in dispute that 13 are already released on bail.

2] In the confessional statement of one of the accused, Applicant is named to be involved in the offence. However, apart from that under section 27 of the Evidence Act, a gas cutter and electronic gas lighter were recovered from the Applicant on the date of invoking the

provisions of MCOC Act. I am informed that five crimes are pending against the Applicant viz **(i)** C.R. No.57/1999 registered with Kapurbawadi Police Station for the offence punishable under Section 379 of the IPC, **(ii)** C.R. No.59/1998 registered with Kapurbawadi Police Station for the offence punishable under Section 379 of the IPC, **(iii)** C.R. No. 29 of 1999 registered with Kopari Police Station for the offence punishable under Sections 394, 34 of the IPC, **(iv)** C.R. No.139 of 2009 registered with Bhoiwada Police Station for the offence punishable under Sections 395, 397, 34 of the IPC read with Section 3, 25 of Arms Act and **(v)** C.R. No.110 of 2001 registered with MIDC Police Station, Shirol, Kolhapur. I am informed that in Crime No.110/2001, Applicant is already acquitted. As such, other offences pending against the Applicant are stale in nature. Apart from above, other accused persons are already released on bail by this Court or court below in spite of there being confessional statement. Some of the orders passed by this Court are worth referring to viz order dated 6/10/2018 in BA No.1628 of 2018, order dated 25/4/2018 in BA No.2519 of 2017, order dated 17/10/2018 in BA No.1064 of 2018, order dated 3/4/2018 in BA No.428 of 2018 and order dated 19/11/2018 in BA No.1473 of 2018.

3] As such, this Court after having appreciated material on record and the aforesaid orders is of the opinion that there exists reasonable grounds to believe that Applicant prima facie has not committed organized crimes. That being so, case for bail is made out.

4] In the result, following order is passed :-

ORDER

- (i) Criminal Application No.2904 of 2021 is allowed and disposed of;
- (ii) Applicant is directed to be released on bail in connection with C.R. No.I-137 of 2017 registered with Naupada Police Station, which is subject matter of MCOC Special Case No.21 of 2017, on furnishing P R. Bond in the sum of Rs 50,000/- with one or more sureties in the like amount;
- (iii) Applicant shall attend Naupada Police Station on every first Saturday every month between 10 am and 12 noon till conclusion of trial.
- (iv) Applicant shall not leave the jurisdiction of Mumbai and Thane without prior permission of the Court;

(v) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) Applicant shall inform his latest place of residence and mobile contact number and/or change of residence and mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vii) Applicant shall cooperate with the conduct of trial;

(viii) Applicant shall file an undertaking in the Trial Court with regard to clauses (iii) to (vii) within two weeks of his release;

(ix) If there are two consecutive defaults in appearing before the Trial Court or in reporting to the Investigating Officer or if the Applicant is found to be involved in similar type of offence and if there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of applicant's bail.

(x) Criminal bail application is allowed and disposed of in above terms. It is made clear that the observations

made herein are prima facie and the Trial Court shall decide the case on its own merits and in accordance with law, uninfluenced by the observations made in this order.

(NITIN W. SAMBRE, J.)