

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1550 OF 2020**

Mangesh Kailas Patil ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Aniket U. Nikam a/w A. Satpute, P. Toshnival, Vivek Arote and Amit Icham, for the Applicant.

Mrs. P. P. Shinde, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

**RESERVED ON : 08th December, 2021.
PRONOUNCED ON : 20th December, 2021.**

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 173 of 2019 registered with Phaltan Police Station, District-Satara for the offences punishable under Sections 397, 394, 120B r/w 34 of the Indian Penal Code (IPC) and under Sections 4(25) of the Arms Act and under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act (MCOC Act)

2 It is the case of prosecution that informant is running a shop in the name of “Arvind Cloth Emporium” at Ambedkar Chowk, Phaltan. On 02/06/2019 at about 9-00 p.m. informant’s father viz. Pritam Gandhi after closing the shop was returning home on scooty along with his son Shreyan. The informant and his grandfather were at home. According to prosecution, at about 9.00 p.m. when Pritam Gandhi was parking his scooty in the parking place of the apartment, the informant heard his father’s screaming and therefore, he went to the gallery. He saw that one unknown person was stabbing on his back by knife and another person was throwing something in the eyes. The informant accordingly rushed and caught hold of one of the accused. The another accused, who was trying to snatch the bag containing cash, fled towards MSEB colony. In the said scuffle, the informant’s father was seriously injured and informant also received injury on his knee. Because of the commotion the neighbours gathered. One of the accused, who was caught hold on the spot, was handed over to the police. The informant accordingly lodged the report.

3 Mr.Nikam, learned Counsel for the applicant, submits that the only accusations against the applicant is that he was in constant touch with co-accused Sajan Pawan Bhosale and was keeping watch on the

movement of informant's father. Further, the applicant has informed co-accused Sajan Pawan Bhosale about the movements of informant's father after the closing of the shop. According to learned Counsel, this came to be revealed by none other than co-accused Samir Hanmant Shitole in his confessional statement. According to learned Counsel, there are no antecedents and in such circumstances, there will be no bar under Section 21(4) of the MCOC Act.

4 Mrs. Shinde, learned APP, on the other hand, has placed reliance on the confessional statement of co-accused Samir Hanmant Shitole, however, learned APP admits that there are no criminal antecedents against the applicant except the present crime number for which the applicant is charged.

5 Perused investigation papers. I have also gone through the confessional statement of co-accused Samir Hanmant Shitole. The accusations against the present applicant is that he was in constant touch with accused Sajan Pawan Bhosale and it was decided between them that the applicant will keep watch on the movements of informant's father. This information was given in the confessional statement by co-accused Samir Hanmant Shitole. Since there are no

criminal antecedents against the applicant, applicability of the provisions of MCOC Act *qua* the applicant seems to be questionable. It is also pertinent to note that the confessional statement of the applicant is recorded under Section 18 of the MCOC Act, therefore, the evidentiary value of the same, more particularly in the light of the fact there are no criminal antecedents against applicant will have to be decided by the trial Court.

6 Moreover, the investigation is completed. Charge-sheet has been filed. Having regard to the material against the applicant, in my view, there is no necessity of keeping the applicant behind the bar. In view of above, I am inclined to allow the application. Hence, the following order.

ORDER

(i) Applicant- Mangesh Kailas Patil shall be released on bail in C.R. No. 173 of 2019 registered with Phaltan Police Station, District-Satara on his executing P .R. bond in the sum of Rs. 25,000/- with one or more sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The applicant shall not indulge in similar activity in future.

(iv) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(v) Bail before the trial Court.

(vi) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)

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