

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

CRIMINAL BAIL APPLICATION NO. 1761 OF 2019

Imran Firoz Mirza @ Irani

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Anil Joshi for the Applicant

Ms. S. V. Sonawane, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.

WEDNESDAY, 20th JANUARY 2021

P.C. :

1 Heard learned counsel for the applicant and the learned A.P.P
for the State.

2 By this application, the applicant seeks his enlargement on bail
in connection with C.R. No. I-169 of 2016 registered with the MIDC
Bhosari Police Station, Pune, for the alleged offences punishable under
Sections 392 r/w 34 of the Indian Penal Code ('IPC') and under Sections
3(1)(2), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act
(`MCOC Act').

3 Learned counsel for the applicant submits that there is no material to connect the applicant with the alleged offence and that mere confession of the co-accused cannot be a ground to deny bail to the applicant. He submits that till date, charge has not been framed and the applicant is languishing in jail from 2017 i.e. for more than 3½ years.

4 Learned A.P.P opposes the application. Learned A.P.P has filed an affidavit of Mr. Ramchandra Shivaji Jadhav, Assistant Commissioner of Police, Pimpri Division, Pimpri-Chinchwad, Pune, setting out the complicity of the applicant in the alleged crime. She submits that the confession of co-accused Mukhtar Sayyed Irani recorded under Section 18 of the MCOC Act clearly shows the complicity of the applicant. She submits that the applicant is the gang leader and that it is at his instance that the aforesaid crime is committed. It is further stated in the affidavit that there are about 25 cases registered as against the applicant, all under Section 392 r/w 34 of the IPC from 2014 to 2017 at different police stations. She submits that whilst on bail, the aforesaid offences has been committed.

5 Perused the papers. It is the prosecution case that the incident took place on 19th January 2017 at about 8:40 p.m near Shahu Nagar, when the complainant-Jyoti Chinchawade was proceeding towards KSB Chowk on a two-wheeler. The complainant has alleged that two unknown persons came on a motorcycle and the person who was sitting on the rear side of the motorcycle, forcibly snatched her *Mangalsutra* and sped from the spot. Accordingly, the complainant lodged a complaint as against unknown persons with the MIDC Bhosari Police Station alleging offence punishable under Section 392, 34 of the IPC.

6 It appears that co-accused-Mukhtar Sayyed Noor Irani, Wasim Patel, Ali Raja Irani were arrested in connection with some other C.R. i.e. C.R. No. 43/2017 registered with Market Yard Police Station, Pune, for the alleged offences punishable under Sections 392, 34 of the IPC. Whilst in police custody in the said C.R., the concerned Investigating Officer learnt that the accused-Mukhtar had committed 22 offences with the present applicant i.e. Imran Irani. Mukhtar Irani also gave a statement in the said C.R. i.e. C.R. No. 43/2017 that they had used two stolen motorcycles in commission of the offence, forged one number plate and had used another motorcycle without the number plate (FIR for theft for two motorcycles

was already registered with the Bhiwandi Police Station vide C.R. No. 329/2016 under Section 379 IPC and Hadapsar Police Station vide C.R. No. 798/2016 under Section 379 IPC). In both the said C.Rs, motorcycles were seized from Mukhtar Irani under Section 27 of the Evidence Act.

7 As, during the course of investigation in the present C.R., it was revealed that the applicant had formed an organized crime syndicate with other accused and as all the accused were involved in chain snatching offences registered with different police stations, a proposal was sent for applying the provision of the MCOC Act. Accordingly, the provisions of the MCOC Act were applied to the present C.R. During the course of investigation, co-accused-Mukhtar Irani's confessional statement was recorded under Section 18 of the MCOC Act before the Deputy Commissioner of Police, Zone-IV, Pune City, in which, Mukhtar Irani has stated that he along with Wasim and other accused had committed several offences on the instructions of the present applicant. Learned counsel for the applicant states that the said confessional statement has now been retracted by the accused-Mukhtar. Whether the statement under Section 18 was voluntary or not, is a matter of trial and would be considered by the trial Court at the time of the trial.

8 A perusal of Section 18 statement of co-accused Mukhtar Irani shows that at the time of the incident, the applicant was on another motorcycle and was following the complainant's vehicle, when the offence was committed i.e. of snatching the *Mangalsutra*. Mukhtar Irani has stated that after the *Mangalsutra* was snatched, the same was handed over to the applicant. He has further stated that he was working with the applicant and that they both were engaged in the act of chain snatching. There are 24 cases registered as against the applicant with various police stations from 2014 to 2017, all under Sections 392 r/w 34 of the IPC.

9 *Prima facie*, it appears from the material on record including the statement of Mukhtar recorded under Section 18 of MCOC Act, that the applicant is the gang leader of the organized crime syndicate and that the motive for running the organized crime syndicate was illegal pecuniary benefit.

10 Considering the material on record, it is not a fit case to enlarge the applicant on bail. Even otherwise, whilst on bail, the aforesaid offence has been committed. Application is accordingly rejected.

11 Considering the fact that the applicant is in custody since last 3½ years i.e. from 2017, the trial of the applicant is expedited. The learned Judge to conclude the case as expeditiously as possible and in any event, within 12 months from the date of receipt of this order.

REVATI MOHITE DERE, J.