

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

BAIL APPLICATION NO. 2430 OF 2019

Vijay Ramdas Waghmare ...Applicant

V/s.

The State of Maharashtra ...Respondent

.....
Mr. Aniket U. Nikam, for the Applicant.
Mr. S. V. Gavand, APP for the State.
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CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 6th DECEMBER, 2021

P. C. :

. This is an application under Section 439 of Criminal Procedure Code, 1973 filed by the aforesaid applicant (accused No.10) who is facing trial in Special Case No.7 of 2018 for offences under section 302, 511, 212, 216, 219, 223, 224, 225, 120-B r/w. 34 of the Indian Penal Code and section 3(1)(ii), 3(2), 3(3), 3(4) and 24 of MCOC Act and sections 3, 5, 25, 27 and 37 of the Arms Act. The said case is pending before M.C.O.C. Court, Pune.

2. Heard Mr. Aniket Nikam, learned Counsel for the Applicant and Mr. S. V. Gavand, APP for the State. I have perused the records and

considered the submissions advanced by learned Counsel for the respective parties.

3. Pursuant to the report lodged by one Sanjay Chandanshive, Crime No.183 of 2017 was registered at Bharati Vidyapeeth Police Station, Pune for offences punishable under Section 224 read with 34 of Indian Penal Code. Investigation revealed that one Sushil Mancharkar had planned to eliminate Kailash Kadam by engaging Santosh Chandilkar, head of Organized Crime Syndicate. Said Santosh Chandilkar, Kalia and Santosh were lodged in Yerwada Jail for some other crime. A conspiracy was hatched to eliminate Kailash Kadam. In pursuance of the conspiracy, plans were made for escape of Santosh Chandilkar, Kaliya and Santosh from confinement.

4. The Applicant herein was a Police Naik and he was in-charge of allotting duties to the escort party. It is alleged that on 10th April 2017, the co-accused Raju alias Kaliya, Santosh Jagtap and Santosh Chandilkar were taken from Yerwada Jail to Khandala Court to attend the Court hearing. It is alleged that the Applicant herein had allotted escort duty to Chandanshiv and Khade. It is alleged that on their

return journey from Khandala Court to Yerwada, the police escort stopped the vehicle on a highway dhaba, Khed Shivapur Road at Kondanpur Phata. Three persons came to the dhaba in a Swift Car and had some discussion with the three under trial prisoners. The accused Chandilkar told the escort – Khade that he wanted to meet his advocate Mancharkar at Pimpri. It is alleged that Khade had made a phone call to the Applicant and thereafter Chandanshive told the driver Suryanarayan to take the vehicle to Pimpri. Since the driver refused to take the Government vehicle to Pimpri, the Chandanshive allowed the accused to travel to Pimpri by the Swift Car. Subsequently, he received a phone call stating that the accused Chandilkar, Jagtap and Raju Patre had escaped from the custody. The accusations against the Applicant are that he had instructed Chandanshive to lodge the report at Bharti Vidyapeeth instead of Pimpri Police Station.

5. The crime has been investigated and upon completion of investigation, charge sheet has been filed. The record indicates that the only material against the present applicant is in the form of statements of Suryanarayan and Vijay Mandhare. In the first two

statements, these witnesses had not made any allegations against the Applicant. It was only in the third statement recorded on 20th November 2017 that these two witnesses have alleged that there was some telephonic conversation between Chandanshive and the Applicant when they had halted for dinner at dhaba and later at Shivaji Nagar Police headquarter and that at the instance of the Applicant herein, the crime was registered at Bharathi Vidyapeeth Police Station.

6. As noted earlier in the previous two statements recorded on 12th April 2017 and 20th June 2017, these witnesses had not made any such allegations against the Applicant. There is no prima facie material to show the involvement of the Applicant in commission of crime under section 302 r/w. 115 of the Indian Penal Code. The maximum punishment for the offence under section 24 of M.C.O.C. Act, is imprisonment for three years. It is stated that the Applicant is in custody since 17th September 2017. It is also stated that till date, the charge is not framed and it is therefore evident that trial is not likely to be concluded in near future.

7. Considering the nature of accusations against the Applicant and the fact that he is in custody since last four years, in my considered view, it is a fit case for grant of bail. Hence, the Bail Application is allowed on following terms and conditions :-

ORDER

(i) The Applicant who is facing trial in Special Case No.7 of 2018 is ordered to be released on bail on furnishing PR. bonds in sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties to the like amount.

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

(iii) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(iv) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

8. Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESAI, J.)

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