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

CRIMINAL BAIL APPLICATION NO.3085 OF 2019

Arjunsing Rajputsing Dudhani	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Rahul Kate, for the Applicant.

Mr. S. V. Gavand, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th JANUARY, 2021

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 158 of 2018 registered with the Talegaon Dabhade Police Station, Pune, for the alleged offences punishable under Sections 395, 412 of the Indian Penal Code; under Sections 4(25) and 27 of the Arms Act and under Sections 3 (1)(ii) and 3(4) of Maharashtra Control of Organized Crime Act (MCOC Act).

3. Learned Counsel for the applicant seeks bail on the ground of parity. He submits that similarly placed co-accused have been released on bail either by this Court or the trial Court. He further submits that the only material *qua* the applicant is the confessional statement of the co-accused - Bacchansing Bhond, whose statement has been recorded under Section 18 of the MCOC Act. He submits that the said Bacchansing has also been released on bail.

4. Learned APP opposed the application. Learned APP has filed an affidavit of Sanjay Bhausahab Naik – Patil, Assistant Commissioner of Police, Dehuroad Division, Pimpri-Chinchwad Commissionrate, Pune.

5. Perused the papers. According to the prosecution, one Lakkadsing Shitalsing Dudhani, is the gang leader of the organized crime syndicate. The incident in question is alleged to have taken place in the intervening night of 28th March 2018 and 29th March, 2018. According to the first informant – Vasant Fulevar, he was working in a Pig Farm owned by Milind Ghare. According to the first informant on the intervening night of 28th March 2018 and 29th March, 2018, four persons entered the said farm; that out of the said four persons, three were carrying knives and one an iron rod; that the said persons forcibly took the mobile phones of the first

informant and his accomplice – Ganesh; that the said persons tied the first informant's hands and after some time left the said spot. According to the first informant, 40 pigs were taken away by the accused in a white tempo which was standing outside the gate. Pursuant thereto, the first informant lodged a complaint alleging robbery of mobile phones and pigs. The said complaint was lodged as against unknown persons. During the course of investigation, the applicant was arrested on 26th December, 2018. During the course of investigation, the confessional statement of co-accused - Bacchansing was recorded under Section 18 of the MCOC Act. It appears that the said confessional statement has been retracted by the said accused. Admittedly, there is no recovery of any articles or pigs, at the instance of the applicant. Admittedly, no Test Identification Parade (TIP) was held in the said case and as such the applicant has not been identified. Similary placed co-accused have been released on bail. Apart from the confessional statement of Bacchansing, there is no other material to connect the applicant with the alleged offences. Admittedly, there is not a single case in which the applicant is an accused with the gang leader – Lakkadsing. In these circumstances, *prima facie* it does not appear that the applicant was a part of the organized crime syndicate allegedly run by Lakkadsing.

6. Considering the material on record, *prima-facie*, there are no reasonable grounds to conclude that the applicant has committed the offences with which he is charged. Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two local solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Sunday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or 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;
- (iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

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

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the copy of this order, digitally signed by the Private Secretary of this Court.

REVATI MOHITE DERE, J.