

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

BAIL APPLICATION NO. 3326 OF 2019

Tushar Sham Satpute ... Applicant

Versus

The State of Maharashtra ... Respondent

.....

Mr. Satyavrat Joshi, Advocate for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 12th AUGUST, 2021.

PER COURT:

1. The applicant is arrested on 29th November, 2016 in connection with C.R. No. 333 of 2016 registered with Khadak Police Station, Dist. Pune for offences under Sections 364-A, 387, 323, 504, 506(2) r/w Section 34 of Indian Penal Code and Sections 3 & 4 r/w Section 25 of Arms Act.

2. The case of the prosecution is that first informant was resident of P.M.C. Colony, since childhood, hence he knows the residents of said area. Shankar Koli, Ganesh Pawar, Tushar Satpute, Sonu Ranpise, Subhash Gaddam, Sadik Ansari, Siddharth Lokhande and Mangesh Satpute are known to complainant being residents of P.M.C. Colony. They were involved in murder of Kunal Pol. They

were in jail in connection with said crime. The complainant is in construction business. He had purchased property at Ghorpade Peth, Pune for new construction. While he visited Ghorpade Peth before festival of Eid, Shankar Koli, Ganesh Pawar, Tushar Satpute, Sonu Ranpise, Subhash Gaddam, Sadik Ansari, Siddharth Lokhande and Mangesh Satpute approached him. They abused and threatened him that Janglya is in jail and he has instructed them to collect Rs.10 Lakhs from him for Court and other expenses. The complainant was threatened with dire consequences, if the amount is not given. Hence, he was scared and did not lodge complaint to police. Subsequently he discussed the issue with family and Advocate and submitted complaint to Police Commissioner. On 28th November, 2016 at about 6.30 p.m. he was at the place of construction. Ganesh Pawar, Tushar Satpute, Sonu Ranpise, Subhash Gaddam, Sadik Ansari, Siddharth Lokhande came to the spot on motorcycle. Complainant was threatened. He was assaulted. Ganesh Pawar and Sadik Ansari pointed weapon at him. Others forcefully made him sit on motorcycle. He was taken to another place. Shankar Koli and Mangesh Satpute were waiting for them. Complainant was threatened. Mangesh Satpute pointed revolver at complainant. Others removed weapons hidden by them. They created terror by showing sickle, sword and threatened

complainant. He was produced before Shankar Koli and Mangesh Satpute. He was questioned why he has not fulfilled their demand of parting Rs.10 Lakhs. Mangesh Satpute pointed revolver at his head. Others removed weapons and created terror. He promised that part payment would be made on next day and rescued himself.

3. Approval was granted for involving provisions of Section 3(1)(ii), 3(2), 3(4) of MCOC Act vide approval under Section 23(1)(a) of MCOC Act dated 13th December, 2016. Sanction under Section 23(2) of MCOC Act was granted for prosecution of accused under Section 3(1)(ii), 3(2), 3(4) of MCOC Act on 1st April, 2017.

4. The applicant preferred an application for bail before the Special Court under the MCOC Act. The said application was rejected by order dated 28th March, 2019.

4. Learned Advocate for the applicant submitted that the applicant is in custody from 29th November, 2016. The applicant is not a member of crime syndicate. The approval does not refer to the previous crimes. The sanction under Section 23(2) of the MCOC Act do not refer to any other offences except the murder of Mr. Kunal Pol. The complainant has forwarded complaint to Home Ministry and various other authorities prior to registration of FIR.

The said complaint do not attribute any overt act to the applicant. There is no material to invoke provisions of MCOC Act.

5. Learned APP submitted that the application preferred by the co-accused Mangesh Shyam Satpute has been rejected by this Court vide order dated 12th January, 2019. The role attributed to the applicant is similar. There is sufficient evidence against the applicant to show his involvement in the offence. The statement of the complainant and other witnesses attribute specific role to the applicant. The offence is of serious nature. The applicant is associated with the crime syndicate. Reliance is placed on statements of Asif Moulana Shaikh and other witnesses. There is sufficient evidence showing the complicity of the applicant in the crime.

6. Learned counsel for the applicant further submitted that the case of Mangesh Satpute, whose application is rejected by this Court and the applicant can be distinguished. the mother of the applicant is suffering from cancer. She is undergoing chemotherapy. She needs treatment. Applicant's presence is required to provide adequate treatment to his mother. There is no progress in the trial. The applicant cannot be kept in custody for indefinite period. He is not involved in any unlawful activities as member of crime

syndicate.

7. I have perused the statements of witnesses and other documents on record. There is sufficient evidence showing involvement of the applicant in the offence. The application for bail preferred by the Mangesh Satpute is rejected by this Court by order dated 12th June, 2019. Applicant has participated in the crime. Overt act has been attributed to him in the FIR. According to the prosecution, the applicant is one of the member of the organized crime syndicate. Statement of witness mentions that Shankar Koli, Ganesh Pawar, Tushar Satpute (applicant), Sonu Ranpise, Subhash Gaddam, Sadik Ansari, Siddharth Lokhande and Mangesh Satpute had committed murder of Kunal Pol. The complainant is the builder and developer. The accused including the applicant and Mangesh Satpute abused and threatened the complainant and stated that Janglya is in jail and for Court expenses and other expenses, the accused are instructed to collect Rs.10 Lakhs from the complainant. He was threatened. On 28th November, 2016 at about 6.30 p.m. Ganesh Pawar, Tushar Satpute (applicant), Sonu Ranpise and others accosted the complainant and questioned him about money demanded from him. He was assaulted. Weapon was pointed out at him. He was made to sit on motorcycle. He was taken to another

place. Shankar Koli and Mangesh Satpute were present. Mangesh Satpute pointed out revolver at complainant and the other accused took out weapons such as sickle and sword. Complaint was lodged. Supplementary statement of the complainant was recorded on 28th November, 2016. Memorandum statement of the applicant was recorded. Sword used by the applicant was recovered. Statements of witnesses were recorded in camera. Statements of other witnesses shows the involvement of the applicant in the offence. The application for bail preferred by Mangesh Satpute has been rejected by this Court. There is sufficient material to show the involvement of applicant. There are eye witnesses to the incidents. They saw applicant and others taking away complainant on motorcycle on 28th November, 2016. Four cases were registered against gang leader Shankar Koli vide C.R. No. 70 of 2009, C.R. No. 16 of 2011 and C.R. No. 34 of 2012 with Khadki Police Station and C.R. No. 283 of 2013 with Swargate Police Station. Two cases are registered against applicant in the past vide C.R. No. 283 of 2013 with Swargate Police Station and C.R. No. 16 of 2011 with Khadak Police Station. Gang leader Shankar Koli is co-accused in the cases. The applicant was in jail with Jangly Satpute and Shankar Koli. The applicant and Shankar Koli were released on bail. The applicant is one of the member of organised crime syndicate under leadership

of accused Shankar Koli. The gang is involved in offences of violence, extortion, offences against body. Considering evidence on record and embargo under Section 21(4) of MCOC Act, no case is made out for grant of bail.

ORDER

Bail Application No. 3326 of 2019 is rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)