IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3559 OF 2019

Deepak Jayantilal Lodhiya .. Applicant

Vs.

State of Maharashtra .. Respondent

Mr. Dilip M. Shah, for Applicant.
Ms. Veera Shinde, A.P.P. for the State-Respondent.

CORAM : PRAKASH D. NAIK, J.
DATE : 6th AUGUST, 2021

PC:

1. This is application for bail under Section 439 of Code of Criminal Procedure. The applicant is arrested in C.R. No.174 of 2018 registered with Azad Maidan Police Station for the offence punishable under Sections 385, 386, 387 read with Section 34 of the Indian Penal Code (for short “IPC”).

2. The complainant has alleged that he had received several international calls from fugitive offender and gangster Guru Satam who demanded extortion amount with threats of dire consequences. From 2014-2017 due to threats from gangster Guru Satam, amount of Rs. 60 lakhs was parted to the associates of Guru Satam. However, the threat calls continued.

In December 2017 amount of Rs.8 lakhs was handed over to the associates of Guru Satam. After few days, the complainant again received threat calls from Guru Satam. On 07.07.2018 three unknown persons visited the site office of the complainant and informed that Guru Satam has told him to contact him on mobile phone. Hence, complaint was lodged with police. Investigation proceeded. Subsequently provisions of MCOC Act were invoked. Prior approval under Section 23(1)(a) of MCOC Act was obtained on 25.07.2018 to invoke Section 3(1) (ii), 3(2), 3(4) of MCOC Act. Sanction was granted under Section 23(2) of the MCOC Act. The applicant was arrested. On completing investigation, charge-sheet was filed.

3. The applicant preferred application for bail before the Special Court. The said application was rejected by order dated 01.02.2019. While rejecting the said application it was observed that since March 2018 the gangster was calling the complainant and issuing threats to him. The accused had given threat to stop the project. The applicant was sent to collect the amount. In the Test Identification Parade, the applicant was identified as

the person to whom Rs.1 lakh were handed over. The applicant was using mobile Nos.9004063263 and 9833413167. The documents on record indicate that amount was transferred to wife of accused No.3. The applicant was using mobile No.8460274635. The CDR indicates that the applicant was in contact from his mobile No.8460274635 with the head of the Organized Crime Syndicate. The applicant was in contact with the accused No.3 from his mobile phone. The CDR of the accused Nos.3 and 4 also indicate that both of them were in contact with the head of organized crime syndicate Guru Satam. He aided Guru Satam to collect the extortion amount from the witness. His connection with the other accused, who were also in contact with Guru Satam, also speaks volume. Two cases were registered against the applicant vide C.R. No. 170 of 2000 and C.R. No.144 of 2009. Both cases relate to the offence of extortion.

4. Learned advocate for the applicant submitted that the applicant has been falsely implicated in this case. In the approval, no role has been attributed to the applicant. The

applicant has not been named in the FIR. The affidavit refers to one case registered against the applicant in the past registered vide C.R. No.627 of 2017 for the offence punishable under Sections 323, 324, 504, 506(2), 143, 147, 149 of IPC. The prosecution has relied upon two cases registered against the applicant as criminal antecedents, while opposing the application for bail before the Sessions Court. It is alleged that the applicant has transferred the amount of Rs.10,000/- to wife of accused No.3. The said amount has no connection with the amount involved in the crime. The applicant is not involved in any case with Guru Satam. There is no cogent evidence about the telephonic contact with Guru Satam by the applicant. The allegations are based on surmises. The provisions of MCOC Act are not attracted against the applicant. The applicant is in custody for substantial period of time. The applicant has no connection with the amount handed over by the complainant to the associate of Guru Satam.

5. Learned APP submitted that there is sufficient evidence against the applicant showing his involvement in the offence.

Although the affidavit-in-reply refers to one case registered against the applicant in the past, he is involved in two other cases, referred by the learned Special Judge while rejecting application for bail. At this stage, learned counsel for applicant submitted that there is no reference to these cases in approval or sanction. The head of the gang is involved in 30 cases. The details of the cases are reflected in the affidavit-in-reply. In May 2018 the accused No.4 and the applicant collected the amount of Rs.1 lakh from the witness. Identification parade was conducted on 04.10.2018. The witness has identified accused No.4 and the applicant. In this connection further statement of the witness was recorded on 04.10.2018. During the course of investigation, statements of witnesses were recorded. The applicant had transferred the amount of Rs.10,000/- to the account of wife of the accused No.3 in two different transactions. During the course of investigation, three mobile phones were seized from the possession of the applicant. The applicant was in continuous contact with the co-accused and wanted accused Guru Satam. The call records of the applicant and the other accused are collected. The applicant is a part of criminal conspiracy hatched by gangster, who had threatened the complainant and extorted amount. Prima facie, offence is made out against the applicant. He has associated with the gang headed by Guru Satam. He is actively participated in the commission of offence. The applicant has criminal antecedents. There is sufficient material to invoke provisions of MCOC Act.

6. I have perused the documents on record. The approval under Section 23(1) (a) of the MCOC Act refers to the name of the applicant. The applicant has contended that the approval does not disclose the role of the applicant. The approval mentions that from the facts of the case and after going through the documents, statements of witnesses, investigation papers and after application of mind, the authority is satisfied that the arrested accused, including the applicant and wanted accused Guru Satam, are gang members of crime syndicate headed by dreaded criminal Guru Satam. The sanction order under Section 23(2) of the MCOC Act dated 05.10.2018 mention that accused No.5 (applicant) has collected the extorted amount at

the behest of the gang leader. The crime has been committed with the object of pecuniary gain and benefit of member of organized crime by using threats of violence. The person from whom the amount of Rs.1 lakh was collected by the applicant and the co-accused have identified the applicant in the test identification parade. The applicant had allegedly transferred the amount of Rs.10,000/- in the account of wife of the accused No.3. The prosecution has heavily relied upon CDR to contend that the applicant was in contact with the co-accused as well as the head of the crime syndicate Guru Satam. Prima facie, there is sufficient material to invoke the provisions of MCOC Act against the applicant. There are criminal antecedents against the applicant. Hence, no case for grant of bail is made out.

ORDER

Bail Application No.3559 of 2019 is rejected and stands disposed of.

(PRAKASH D. NAIK, J.)