

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.948 OF 2020

(Laxminarayan @ Krishna Naynuram Bharti Vs. State of Maharashtra thr. PSO PS
Kamptee, Dist. Nagpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. R. S. Nayak, Advocate appointed for Applicant.
Mr. N. S. Rao, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 25th OCTOBER, 2021.

The applicant is seeking bail in connection with Crime 308/2018 registered with Police Station Kamptee, District Nagpur for offences punishable under sections 392, 397, 341, 506 read with 34 of the Indian Penal Code and section 4/25 of the Arms Act and sections 3 (1)(11), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 ('MCOC Act' for short).

2. The crime is registered on the basis of report lodged by Mr. Sonu Bhimte alleging that he was stopped on Pawangaon Road by one person who claimed that his vehicle ran out of fuel. At that time, another Activa vehicle arrived at the scene. Two persons who were riding the Activa vehicle assaulted the informant and relieved him of two mobile phones and Rs.4000/- (Rupees Four Thousand only) cash.

3. The learned counsel Mr. Nayak submits that in the substantive crime in which the provisions of MCOC Act are invoked, there is no material which if translated into evidence shall entail conviction of the accused. This submission is not refuted by the learned APP Mr. Rao.

4. The short submission of Mr. Nayak is that since the applicant is not *prima facie* involved in the substantive crime, only on the basis of certain charge-sheets filed in the past, the applicant cannot be detained unnecessarily. The provisions of the MCOC Act would not be applicable in the absence of culpability in the substantive crime inasmuch as there would be no continuing unlawful activity as would warrant invoking the stringent provisions of the MCOC Act, is the submission. Certain decisions are pressed in service to buttress the said submission.

5. Considering the irrefutable position on record that in the present crime there is no material on record as can be termed as incriminatory, a satisfaction can be recorded that reasonable grounds exist to believe that the applicant may not be involved in commission of offence under the MCOC Act.

6. For similar reasons, a further satisfaction can be recorded that the applicant is not likely to indulge in offence punishable under the MCOC Act, if released on bail.

7. The application is allowed.
8. The applicant shall be released on bail on executing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with a solvent surety of like amount.
9. The applicant shall not make any attempt to tamper with the evidence or to influence witnesses, directly or indirectly.
10. The applicant shall not leave the country without the permission of the jurisdictional Court.
11. The fees of the learned appointed counsel Mr. Nayak be paid in accordance with the rules. Since Mr. Nayak graciously states that the fees payable to him be remitted to the account of the High Court Bar Association, Nagpur, the registry to do the needful.

JUDGE