

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

CRIMINAL APPLICATION (BA) NO.929 OF 2021

(Imran Ali @ Immu Kalya s/o Mir Ashad Ali Vs. The State of Maharashtra thr. PSO
PS Tahsil, Nagpur)

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

Court's or Judge's orders.

Mr. U. P. Dable, Advocate for Applicant.
Mr. N. S. Rao, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 12th OCTOBER, 2021.

The applicant is facing trial for offences punishable under Sections 307, 506-B, 224, 225, 120-B read with 34 of the Indian Penal Code and Section 4 r/w 25 of the Arms and Section 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ('MCOC Act' for short).

2. The applicant applied for bail, in the pending trial, which application came to be rejected by the learned Special Judge vide order dated 19.07.2018.

3. The applicant is allegedly a member of an organized gang headed by Irfan alias IPPA. The crime chart which is made available by the prosecution reveals that the applicant is facing as many as eight serious offences including offences punishable under Sections 302 and 307 of the IPC and dacoity.

4. The material on record is formidable and since entitlement to bail for offence punishable under the MCOC Act must be scrutinized on the anvil of the test envisaged under Section 21(4) of the MCOC Act, it is impossible to record a finding that reasonable grounds exist to record satisfaction that the applicant is not guilty of offence punishable under the MCOC Act or that he is not likely to commit a similar offence if released on bail.

5. It is for this reason that this Court (Coram: Smt. Pushpa V. Ganediwala, J.) disposed of the application for bail preferred by the applicant specifically recording her disinclination to allow the application. Perusal of the order dated 06.08.2020 reveals that it was in view of the disinclination to grant bail that the applicant withdrew the application.

6. However, the applicant prayed for liberty to apply for bail after six months. Such liberty was granted subject to the condition that there is no effective hearing and the delay is not attributable to the accused.

7. It appears that it was not pointed out to the learned Judge that there was no possibility of immediate progress inasmuch as at least one accused was absconding and the pandemic situation made an early trial a physical impossibility. Further, there is nothing on record to show that the applicant – accused brought to the notice of the learned Special Judge that such liberty is granted by the

High Court.

8. This application is preferred on the premise that there is no progress in trial and the applicant is entitled to avail the liberty granted. However, when this Court expressed its intent to dismiss the application, a statement is made by the learned counsel Mr. Uday Dable that the applicant is not pressing the bail application.

9. The applicant shall be at liberty to apply before the Special Judge for an early trial, and if such request is made, the Special Judge will duly consider the same subject to the workload and other relevant considerations.

10. The application is dismissed as withdrawn.

JUDGE