

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

CRIMINAL APPLICATION (BA) 978 OF 2021

(Parvez Sheikh Mustaq Sheikh..vs..State, thr PSO, PS Nagbhid, Dist. Chandrapur)

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

Court's or Judge's orders.

Mr. R.D. Sagore and Mr. C.R. Thakur, counsel for applicant.
Mr. N.S. Rao, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 21.10.2021

The applicant is seeking bail in connection with Crime 439/2018, registered with Police Station Nagbhid, District Chandrapur, for offences punishable under sections 302, 307, 353, 332, 333, 363, 417, 406, 120-B of the Indian Penal Code ("IPC"), sections 65(A), 82 and 83 of the Maharashtra Prohibition Act ("Prohibition Act") and sections 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act ("MCOC Act").

2. The prosecution case is that secret information was received that one white colour Scorpio vehicle bearing registration MH-34 AM-281 will be proceeding towards village Morshi with stock of liquor, which would be sold in

prohibited area.

3. Pursuant to such information, police staff led by PSI Chide barricaded the road, the vehicle approached and was signaled to stop, the driver of the Scorpio vehicle Prasnajit @ Chotu Parimal Haldar mowed down PSI Chide, who succumbed to the multiple serious injuries suffered. The Scorpio vehicle then proceeded to Advani Dhaba at Pachgaon Road, Nagpur where the contraband liquor was unloaded on the instructions of the alleged leader of the organized crime syndicate Shahjad Shaikh.

4. The provisions of the MCOC Act are invoked during the course of investigation. The role attributed to the applicant is that he was travelling in the Scorpio vehicle which mowed down the police officer. The MCOC Act is invoked on the premise that the applicant is a member of the Shahjad Shaikh organized crime syndicate.

5. I have scrutinized the material on record on the anvil of the test envisaged by section 21(4) of the MCOC Act,

and having done so, I am satisfied that reasonable grounds exist to believe that the applicant may not be involved in offence punishable under the MCOC Act.

6. In so far as the offence under section 302 of the IPC, which is the main offence, apart from the fact that the applicant was travelling in the killer vehicle which was driven by co-accused Prasanjit Halder, prima facie, whether the applicant shared a common intention with the said co-accused, is contentious and the said aspect will have to be dealt with by the trial Court on the basis of evidence on record.

7. In so far as the applicability of MCOC Act is concerned, other than the substantive or main crime, there are only two prosecutions which the applicant is facing, one is under section 224 of IPC and the other is under sections 65(E), 77(A) and 83 of the Maharashtra Prohibition Act. While a positive finding on the applicability of the MCOC Act is not necessary, I am satisfied that prima facie the accusations in the earlier crimes do not attract the provisions of the MCOC Act. I have no hesitation in recording a satisfaction under section 21(4) of the MCOC Act that reasonable grounds exist to believe that the

applicant may not be guilty of offence under the MCOC Act.

8. The applicant is not likely to involve himself in offence under the MCOC Act, if released on bail, is also a satisfaction which can be safely recorded.

9. A case for grant of bail is made out. The application is allowed subject to the following conditions:

- (i) The applicant shall execute the personal bond of Rs.15,000/- (Rupees Fifteen Thousand) with one solvent surety of the like amount.
- (ii) The applicant shall report at the concerned police station on the 15th and 30th day of every month.
- (iii) The applicant shall, within forty-eight hours of release, furnish to the Investigating Officer his current address and phone numbers and shall update the Investigating Officer of any change.
- (iv) The applicant shall not indulge in any criminal activity. Any breach of this condition may *ipso facto* entail cancellation of bail, if an appropriate motion is moved by the prosecution.
- (v) The applicant shall not make any attempt to influence the witnesses, directly or indirectly.

(vi) The applicant shall not leave the country without the permission of the trial court.

10. The application is disposed of accordingly.

JUDGE

Belkhede