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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Delivered on: 07th January, 2021

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BAIL APPLN. 1436/2020

SAHIL DAHIYA @ TARUN DAHIYA

..... Petitioner

Through : Mr.Sunil Kumar Mittal and
Mr.Anshul Mittal, Advocates.

versus

THE STATE NCT OF DELHI

..... Respondent

Through : Ms.Rajni Gupta, APP for the State
with Inspector Neeraj Sharma,
Special Branch.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

YOGESH KHANNA, J. (*Through Video Conferencing*)

1. This petition is filed under Section 439 Criminal Procedure Code 1973 (hereinafter referred as *Cr P C*) for seeking regular bail in case FIR No.207/2019 under Section 3/4 of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred as *MCOCA*) registered at police station Special Cell, Delhi Police.

2. The learned counsel for the petitioner argued petitioner herein has been wrongly involved in MCOCA and though, perusal of the status report filed by the State shows there are three FIRs against petitioner; however, in FIR No.816/2014 under Section 302/34 IPC registered at police station Rohini North, Delhi the petitioner was granted bail by this Court per order dated 03.06.2015 and that time *admittedly* the accused had no association with Parvesh Maan. As regards the FIR No.226/2018 registered at police station Ashok Vihar, it is alleged though charge sheet has been filed against petitioner but there is no evidence of his

association with the organized gang of Parvesh Maan. Further in FIR No. 291/2018 under Section 387 IPC PS K. N. Katju Marg, Delhi, the petitioner is not involved. It is also argued Annexure-I of status report reveals at least 40 persons associated to Parvesh Mann, then why the accused of FIR No.226/2018 are singled out.

3. It is further submitted whilst the petitioner was on interim bail in case FIR No.226/2018 he was apprehended by the Delhi Police and was involved in the present case FIR and arrested under the provisions of the MCOCA. It is also alleged the petitioner on 04.06.2020 had retracted from the confessional statement recorded under Section 18 of the MCOCA and such letter is annexed as annexure A to this petition.

4. However, the case of the prosecution is one Parvesh Maan @ Sagar the alleged the head of a syndicate, including the petitioner herein is running an organized crime syndicate and is continuously engaged in the *unlawful activities* for the purpose of pecuniary gain and other benefits. In the year 2018 the syndicate brutally murdered another notorious gangster Suryapraksh @ Babloo in the area of police station Ashok Vihar on 31.07.2018 to prove their supremacy of the gang in the area of Outer Delhi for creating the havoc and terror, hence, the present FIR was registered at the petitioner after obtaining the approval from the competent authority.

5. It is alleged in the last ten years, there are ten cases registered against Parvesh Maan, being head of the syndicate. The three FIRs viz FIR No.226/2018 under Section 302/34 IPC police station Ashok Vihar; FIR No.282/2018 under Section 387 IPC police station K N Katju Marg;

and FIR No.291/2018 under Section 336/427 IPC and Section 25/27 Arms Act police station Maurya Enclave were registered against the gang members. It is alleged only the accused of FIRs of 2018 have been made accused in present FIR as these FIRs are recent and hence their association with accused Parvesh Maan is recent.

6. During the course of investigation, petitioner Sahil Dahiya was arrested on 21.01.2020 and PC remand was taken on 29.01.2020. Confessional statement of Sahil as per the provisions of Section 18 of MCOCA was got recorded on 06.02.2020 by the competent authority i.e. DCP and after that he was produced before the CMM on 06.02.2020.

7. Later, four accused persons namely Ajay Mann, Sachin Mann, Yudhveer Maan including syndicate Pravesh Maan were also arrested in this case and their confessional statements were recorded as per the provision of section 18 of MCOCA before the competent authority i.e. DCP. Confessional statement of Syndicate/gangster Pravesh Maan was got recorded by DCP on 01.04.2020 who disclosed about involvements of his gang members, including of the petitioner Sahil Dahiya and others. He stated he along with the petitioner Sahil Dahiya, Sachin Maan, Sonu Maan @ Chand, Praveen @ Gaurav Tyagi committed murder of one Surya Prakash @ Babloo in Ashok Vihar on 30.07.2018.

8. As per record all the conditions for recording confessional statement as laid down in Section 18 of the Act were duly complied with. The record *prima facie* show no pressure was exerted upon the accused and the confessional statement was made voluntarily by him and he was told about his rights and briefed about the consequences before

recording his confessional statement by the DCP. He was also produced before the CMM, Patiala House Courts, New Delhi who asked him whether he gave his statement voluntarily before DCP and his response to the same has been recorded by learned CMM. The same process has also been followed while recording statements of other co-accused. The confessional statements are *admissible* as *evidence per* Section 18 of MCOCA, in the present case FIR No.207/2019 under Section 3 & 4 MCOCA, PS Special Cell.

9. Admittedly, petitioner Sahil Dahiya @ Tarun Dahiya is a co-accused in FIR No.226/2018 under Section 302/201/120B/34IPC & 25/27/54/59 Arms Act PS Ashok Vihar, Delhi along with head of syndicate Pravesh Maan and other associates of this case namely Sachin Maan, Yudhveer @ Sonu Maan @ Chand and Gaurav Tyagi @ Praveen in which one other gangster Babloo @ Ganja was murdered by firing to establish the supremacy of Pravesh Maan gang in the area . It is further pertinent to mention that in the charge sheet filed, it is specifically mentioned that location of the mobile phone number 9873716004 *used by the petitioner Sahil Dahiya* was found *near the scene of crime* and there are 377 calls with syndicate Pravesh Maan in ten days. This *prima facie* shows his association with Parvesh Maan.

10. Though it is alleged there is no evidence of organized crime against petitioner herein, but his association with Parvesh Maan is *prima facie* established by CDRs between the two. Admittedly, 10 FIRs are registered against Parvesh Maan too. It is too early to say how the trial would shape in FIR No.226/2018 (supra) but it cannot be said there exists no link between the gang and this applicant.

11. The allegations that syndicate has been engaged in organized crime by committing murder in the area for area domination, demanded protection money from several persons, many of which has not even dare to come forward to give complaint against the syndicate, cannot be ignored at this stage. The crime syndicate has used violence in committing crimes as it evident from the fact that at time they have been apprehended by the police illegal weapons have been recovered from their possession. Murder of another gangster Surya Prakash @ Babloo registered vide FIR No.226/2018 under Section 302/201/120B/34 IPC & 25/27 Arms Act, PS Ashok Vihar, allegedly, is done to gain/establish supremacy of this crime syndicate in the area.

12. The alleged retraction on 04.06.2020 of his confessional statement does not appear to be bonafide because of long delay. The reason for delay is not convincing either.

13. In view of the abovesaid facts and circumstances, the bail cannot be granted to the petitioner Sahil Dahiya at this stage, hence his application is dismissed. Pending application(s), if any, also stand(s) disposed of.

14. Since, the matter is pending trial, needless to say the learned Trial Court shall not be influenced from any of the observation above.

YOGESH KHANNA, J.

JANUARY 07, 2021

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