

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 221 OF 2022

Karansingh @ Karan @ Kanna Madhav Solanki,
Age : 15 years, Occ : Labour,
R/o Ear Stone Crusher Sawangi,
Tq. & Dist. Aurangabad Applicant

Versus

The State of Maharashtra
Through Police Inspector
Phulambri Police Station,
Tq. Phulambri, Dist. Aurangabad Respondent

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Mr. Manikrao L. Wankhade, Advocate for the Applicant
Mr. S.B. Narwade, APP for Respondent/State

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[CORAM : S.G. MEHARE, J.]

RESERVED ON : 28.06.2022

PRONOUNCED ON : 19.07.2022

ORDER :

1. The present application is filed under Section 439 of the Code of Criminal Procedure in Crime No. 307 of 2020 registered at Phulambri Police Station, District Aurangabad for the offences punishable under Sections 395, 397, 398, 120-B, 324, 323, 504, 506, 143, 147, 148, 149 and 452 of the Indian Penal Code with Sections 3(1)(ii), 3(2), 3(4) of the

Maharashtra Control of Organised Crime Act, 1999 (for short 'MCOCA')

2. The applicant has been arrested on 27.04.2011 in the crime. Since then he is languishing in jail. His earlier bail applications were rejected. However, in view of the order passed by this Court in Bail Application No. 869 of 2021 dated 01.09.2021, the leave was granted to him to file a fresh application for bail before the concerned Court. Thereafter, the applicant had filed an application for bail before the learned Special Judge (MCOCA), Aurangabad. The learned Special Judge was pleased to reject the bail application observing that his previous bail application no. 975 of 2021 was rejected after filing the charge-sheet. There is no change in circumstances. After the rejection of the said order, the applicant approached this Court for bail.

3. Learned counsel for the applicant vehemently argued that except recovery of lighter looks like a pistol under Section 27 of the Indian Evidence Act, 1872, there is no evidence against the applicant. The applicant is not a gangster. Three months after the incident, the Investigation Officer has added Sections 395 and 397 of the Indian Penal Code. MCOCA sanction was obtained by the Investigating Officer on

12.03.2021. He also argued that the charge-sheet is filed, however, the trial may take its own time. He has referred to the various statements and allegations made in the F.I.R He has also argued that there is no material to apply the provisions of MCOCA against the applicant. He, therefore, prayed to release the applicant on bail.

4. Learned counsel for the applicant relied on the cases of *Ranjitsing Brahmajetsing Sharma Vs. State of Maharashtra*, reported in *2005 AIR (SC) 2277*, *State of Maharashtra Vs. Bharat Baburao Gavhane and Ors.* reported in *2006 ALL MR (Cri) 2895* and the order of the learned Special Judge passed below Exhibit 1 in bail Petition No. 505 of 2021 dated 16.03.2021.

5. Learned APP has strongly opposed the application, contending that the charge-sheet was filed on 14.06.2021. The applicant must show the change in circumstances. At the time of the hearing of his earlier bail application, the charge-sheet was filed. There is no change in circumstances. Six crimes are to his discredit, out of them four cases are pending. He hails from the State of Madhya Pradesh. The sanction under Section 23(2) of the Maharashtra Control of Organized Crime Act was granted on 07.06.2021. The serious

offence is registered against the applicant. There is great possibility of absconding and fleeing away from the trial. Therefore, the application deserves to be dismissed.

6. After the order passed by this Court in Bail Application NO.869 of 2021 dated 01.09.2021, the applicant moved an application before this Special Bench. The learned APP has rightly pointed out that when the Bail Application No. 869 of 2021 was moved, at that time, the charge sheet was already filed. It seems that this fact was not brought to the notice of the Court. Be that as it may, his earlier bail application was considered on merit, after the filing of the charge sheet. The applicant has right to file the Bail Application one after another when a change in circumstances arises, after passing the earlier orders. The learned Special Court has considered the entire charge sheet while deciding the Bail Application No.975 of 2021 and denied to release the applicant on bail. The applicant has failed to satisfy the Court that after rejection of his bail application after the filing of the charge-sheet, there is a change in circumstances. Therefore, the application cannot be entertained.

7. The facts of the cases relied upon by the applicant are altogether different from the facts of the case in hand. Therefore, none of the case will help the applicant.

8. Since there is no change in circumstance, the application stands dismissed.

[S.G. MEHARE, J.]

S.P Rane