

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1001 OF 2022

Pratap Achyutrao Kadam

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. N.S. Ghanekar, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 19th AUGUST, 2022**

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 307 of 2021 registered with Purna Police Station, Dist. Parbhani for the offences punishable under Sections 307, 364, 365, 342, 323, 504, 506, 143, 147, 148, 149, 120-B of the Indian Penal Code and under Sections 3(1)(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ('MCOCA').

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by the victim himself on 23rd August, 2021. It has been alleged in the F.I.R. that on 21st August, 2021 the informant received a phone call of his friend – Rameshwar, asking him to come to Deogaon Phata on Purna – Zeor Phata road. The informant, therefore, went there. Co-accused Saurabh Jogdand and Krushna Kadam were there. Both of them caught hold of the informant and attempted to beat him up. Both of them took the informant by the road leading to village Deogaon. There was one black Scorpio vehicle. The applicant got down of the said vehicle. He forcibly made the informant sit in the vehicle. The informant's friend – Rameshwar was in the vehicle. Both of his hands were tied with adhesive tape. The applicant tied informant's hands similarly. The applicant was armed with a screwdriver. He assaulted the informant at his neck and right leg by the screwdriver with a view to commit his murder. Co-accused – Balaji Panchal was driving the vehicle. Another co-accused – Krushna had seated by the side of driver. Rear seats were occupied by co-accused Saurabh Jogdand, Kaustubh Kadam and Abhay Walure. The informant was taken to one room adjacent to one 'Raj Bar' at Chaupal Sagar. The informant's legs were also tied. Both, the informant and his friend – Rameshwar were detained there. The applicant asked his associates – Pratap Ghatol and Pushkar Bodhankar to stay there and ensure that the informant and his friend would not escape.

4. The crime came to be investigated. During investigation, it was found to be an offence of organised crime committed by the members of

organised crime syndicate headed by the applicant herein. Provisions of M.C.O.C.A., therefore, came to be invoked. Necessary approval therefor was obtained. On grant of sanction for prosecution, the charge-sheet came to be filed.

5. Learned counsel for the applicant would submit that there is delay of little over two days in lodging the F.I.R. All the co-accused have been granted bail. Injuries suffered by the informant are simple in nature. The F.I.R. has been lodged as counterblast since the informant and his associates committed murder of Pushkar Bodhankar by the same time at one room by side of one 'Raj Bar' at Chaupal Sagar. As regards criminal antecedents are concerned, learned counsel would submit that the applicant has been acquitted of eight of such cases. The other crimes in which he has been shown to be involved were not committed by the applicant and others, who are co-accused in the present case. As such, the present case cannot be termed to be an 'organised crime' punishable under the M.C.O.C.A. He, therefore, urged for grant of application.

6. Learned A.P.P. would, on the other hand, submit that not less than seventeen crimes were registered against the applicant. In view of Section 21(4)(b) of the M.C.O.C.A., the applicant cannot be released on bail.

7. Considered the submissions advanced. There is delay of little over two and half days in lodging of F.I.R. The nature of injuries suffered by the informant are simple in nature. As per the prosecution case, it is an organised crime committed by the members of organised crime syndicate headed by the applicant herein. In the F.I.R. itself the role played by the co-accused has been described. All the co-accused have been granted bail. On the ground of parity and there being delay of little over two days in lodging of F.I.R. besides considering the nature of injuries suffered by the informant coupled with the fact that one Pushkar Bodhankar was alleged to have been murdered by the present informant and co-accused – Rameshwar at the premises adjacent to Raj Bar on the same day i.e. 21st August, 2021 by 08.30 p.m.. This Court is inclined to grant the application. Veracity of the allegations in the F.I.R. could only be tested during trial of the case.

8. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 307 of 2021 registered with Purna Police Station, Dist. Parbhani for the offences punishable under Sections 307, 364, 365, 342, 323, 504, 506, 143, 147, 148, 149, 120-B of the Indian Penal

Code and under Sections 3(1)(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall attend the concerned police station everyday by 11.00 p.m. until conclusion of trial.

(IV) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD