

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

908 BAIL APPLICATION NO.1475 OF 2022

INDRAJEET RAMESH KASAR
VERSUS
THE STATE OF MAHARASHTRA

WITH

BAIL APPLICATION NO.1429 OF 2022

SANKET BHAUSAHEB BHALSING
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Karpe Rahul R.
APP for Respondent-State : Mr. K. S. Patil.

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CORAM : S. G. MEHARE, J.
DATE : 22.11.2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent-State.
2. Both the applicants, who are not named in the FIR have been subsequently arraigned as accused for the offence of murder. Applicant Indrajeet is the brother of main culprit Vishwajeet. The deceased, who had given the statement before his death also did not state the names of the present applicants. The applicants have been arraigned as accused after about one year of the date of the incident. The deceased

was diagnosed Covid-2019 Positive. Hence, he was admitted to the hospital. When he was under the treatment for Covid-2019, he died.

3. Learned counsel for the applicants would argue that the injured did not state the assault on the vital part of his body and he has also not alleged against the present applicants. There is no evidence against the applicants that they were involved in the crime. Surprisingly enough, the offences punishable under the provisions of the Maharashtra Control of Organized Crime have been applied. The Investigating Officer did not apply the mind when applied the said Act. There were no crimes to attract the provisions of the said Act. There are no allegations of committing the crime for gaining peculiar benefits. The applicants are languishing in jail for a long period. Applicant Indrajeet was arrested on 14.12.2020 and applicant Sanket was arrested on 17.01.2021, respectively. Since there was no evidence against the applicants, they may be released on bail.

4. Learned APP has strongly opposed the applications. He would argue that there were cases against the applicant Indrajeet. The prosecution has circumstantial evidence to

show the involvement of the applicants in the crime. Hence, the applications may not be allowed.

5. Perused the charge sheet. The applicants were not named in the FIR. The incident happened on 17.11.2020 alleging that the deceased was assaulted on his head, legs, hands etc. However, he died on 05.12.2020. The medical papers reveal that he was also treated for Covid-2019. Perusal of the record does not reveal a material to believe the allegations against the applicants. The prosecution has no explanation for applying MCOC Act. Charge sheet has been filed. Considering the charge sheet, the Court is of the view that the applicants have *prima facie* a good case for bail. Hence, the following order :

ORDER

- (i) Bail Applications are allowed.
- (ii) Applicant **INDRAJEET RAMESH KASAR** in Bail Application No.1475 of 2022 and applicant **SANKET BHAUSAHEB BHALSING** in Bail Application No.1429 of 2022 be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each, in Crime No.1123 of

2020, registered by Police Station Ahmednagar Taluka, District Ahmednagar, for the offences punishable under Sections 302, 326, 143, 147, 148, 149, 365, 324, 323, 504, 506, 120-B and 212 of the IPC and Section 3(1), 3(2) and 3(4) of the MCOC Act on the following conditions :

- (a) They shall not tamper with the prosecution witnesses.
- (b) They shall not involve in the similar nature of offences.

(S. G. MEHARE, J.)

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vmk/-