

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 727 OF 2022

Vishal Bajirao Patil ...Applicant
Versus
The State Of Maharashtra ...Respondent

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Mr. Ramanik P. Pawar, Advocate for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM : **PRAKASH D. NAIK, J.**
DATE : **3rd AUGUST, 2022.**

PER COURT:

1. This is an application for bail in C.R. No.202 of 2018 registered with Juna Rajwada Police Station, Kolhapur for offences punishable under Sections 364-A, 386, 120-B, r/w Section 34 of Indian Penal Code (for short "IPC"). Subsequently, provisions of Sections 3(1)(ii), 3(2) 3(4), 3(5) of the Maharashtra Control of Organised Crime Act, 1999 (for short "MCOC Act") were invoked.
2. This is second application for bail before this Court. The previous application was rejected vide order dated 30th July, 2021.
3. The brief facts of the prosecution case is that the complainant is conducting consultancy in the name of Universal Consultancy Services at Shanivar Peth, Kolhapur, for providing assistance to its customers who are seeking finance provided by the Bank in

accordance with the Government Schemes. On 29th April, 2018, the complainant was at his residence as it was Sunday. At about 2:30 p.m., he received a call from unknown person. The caller gave his name as Vishal Shinde. He stated that he is in need of loan for the purpose of wedding of his brother. The complainant told him that it is Sunday, and, he can send his brother at his office on the next day. On the same day at about 6:30 p.m., call was received from same person. From True Caller App, the complainant learnt the name of caller as Gopal Gym. On 30th April, 2018, the complainant did not visit his office. At about 10:00 a.m., he received a call from the same person and he stated that he is waiting at Kolhapur. They can meet on that day. Complainant told him that he is busy in wedding and he would come to Kolhapur after he gets free. The caller asked him as to from which route he would come, and the complainant informed him that he would come through Gargoti Road. The caller informed the complainant that he would wait for him near Sai Mandir at Kalamba. The complainant left his house at about 04:30 p.m., and boarded S.T. bus. He reached Sai Mandir at Kalamba at 5:15 p.m. He gave call to Vishal Shinde. The complainant was informed that Innova car is parked near Sai Temple. The complainant walked towards the vehicle. Grey coloured Innova car was parked near the temple. Two persons

were sitting on the front seat and one person was sitting on the rear seat. Vishal Shinde was standing outside. He told the complainant that they can discuss while sitting in the vehicle. Two persons were standing outside the car also boarded the vehicle. The complainant was occupying the rear seat. Thereafter one more person entered into the car. The car was taken towards Pachgaon road. The complainant suspected foul-play. He questioned the inmates of the vehicle. They assaulted him. They switched off phone cell phone of the complainant. They took his wallet and documents. Two of them assaulted him with steel pipe. They demanded Rs.25,00,000/-, and threatened him that he would be killed. The car was taken towards R.K. Nagar road. The complainant showed his inability to part with the amount. He was continuously assaulted. He was told to give call to his persons for collecting amount. The complainant gave call to his wife and told her to make arrangement for money. His wife told him she does not have any amount in the house. He advised her to mortgage the gold ornaments and arrange funds. Complainant was forced to make call to any other person for arranging the amount. The complainant fainted. The car was taken further towards MIDC road and stopped near Krishna Hospital. They withdrawn an amount of Rs.4000/- from the ATM card of the complainant.

Thereafter, they proceeded further. The complainant was informed by his relative that amount of Rs.60,000/- has been collected by mortgaging the ornaments with the jeweller. The total amount of Rs.70,000/- was handed over to the accused. The complainant was threatened of dire consequences. At about 10:45 p.m., alighted from the vehicle of accused. During the course of investigation, applicant was arrested.

4. Learned Advocate for the applicant submitted that the applicant is in custody from 15th May, 2018. There is no progress in the trial. Even the charge has not yet framed. It is not clear as to when the trial would conclude. The applicant has not played any role. Although the applicant has been identified in the test identification parade, the role is not specified. The accused to whom aggravated role was attributed are granted bail by this Court. Further detention of the applicant is not necessary. The alleged gang leader Yogesh Rane has been granted bail by this Court vide order dated 30th November, 2021. Co-accused Akash Aaglave has been granted bail by this Court by order dated 15th July, 2021. Accused Prasad Suresh Ghatage has been granted bail by this Court vide order dated 20th January, 2022.

5. Learned APP submitted that the provisions of MCOC Act are

invoked against the applicant. The offence is of serious nature. The previous application for bail was rejected by assigning reasons. There is no change in circumstance. No ground for bail is made out. The earlier order granting bail to Akash Aaglave has been considered by this Court. Confessional statement of the co-accused implicates the applicant. Hence, the application may be rejected.

6. Undisputedly, the applicant is in custody for a period of about 4 years & 3 months. The previous application was rejected by this Court vide order dated 30th July, 2021. However, even after period of more than year, after rejection of bail application, there is no progress in the trial. Yogesh Rane is granted bail vide order dated 30th November, 2022 passed in Bail Application 1036 of 2019. Thereafter, another accused Prasad Ghatage has been granted bail by this Court vide order dated 20th January, 2022. Both these orders were passed subsequent to rejection of the application preferred by the applicant. While granting bail to Yogesh Rane, the alleged gang leader, this Court had observed that, the co-accused Aakash Aaglave has been granted bail by this Court. The accused Yogesh Rane was arrested on 8th June, 2018 and from the date of filing charge-sheet, none of the witnesses have implicated him in the crime remotely. There is no Prima facie material to indicate

that he had received any money which was allegedly paid by the accused. There is no prima facie material to suspect his involvement in the crime. Thus, the material on record does not prima facie indicate that the applicant was involved in abducting the first informant, assaulting him or demanding money or entering in a conspiracy to abduct the first informant for money. Other accused Prasad Ghatage was allegedly present in the car while abducting victim. Accused Aakash Aaglave was allegedly following the said car. The provisions of MCOC were invoked being member of gang. The leader is granted bail. Considering the aforesaid circumstances inspite of rigors of Section 21(4) of the MCOC Act, there is no impediment for granting bail to the applicant.

7. Hence, I pass the following order :

ORDER

- i. Bail Application No.727 of 2022 is allowed;
- ii. The applicant is directed to be released on bail in connection with C.R. No.202 of 2018 registered with Juna Rajwada Police Station, Kolhapur on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.

- iv.** The applicant shall attend Juna Rajwada Police Station, Kolhapur once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m till further order.
- v.** The applicant shall not tamper with the evidence.
- vi.** The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court for some reason.
- vii.** Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)