

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3300 OF 2021

Prasad Suresh Ghatage ...Applicant

Versus

The State of Maharashtra ...Respondent

.....
Mr.Umesh Mankapure for the Applicant.
Mr. Ameet A. Palkar, APP for the Respondent -State.
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CORAM : V.G.BISHT, J.
RESERVED ON : 14TH DECEMBER, 2021
PRONOUNCED ON : 20TH JANUARY, 2022

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 202 of 2018 registered with Juna Rajwada Police Station, Kolhapur for the offence punishable under Sections 364 (A), 386, 120 (B) read with 34 of the Indian Penal Code (the IPC) and Sections 3 (1) (ii), 3 (2), 3 (4) and 3 (5) of the Maharashtra Control of Organized Crime Act.

2. The informant runs a consultancy in the name Universal Consultancy Services. He renders assistance to the needy and small time businessmen in availing loan facility through financial institutions and benefits of various government schemes. According to prosecution, on 29th April, 2018, he received a phone call from an unknown person revealing his name as Vishal, who told him that his brother wants to start a business and therefore is in need of money. Informant accordingly met said Vishal.

3. Prosecution alleges that the informant was taken in an Innova car in which some persons were sitting and was taken to Pachgaon Road. On the way, it is alleged, occupants of the car assaulted informant and took his mobile and other belongings and also demanded an amount of Rs. 25 lakhs. Somehow, informant managed Rs. 70,000/-. After the said payment, he was dropped near Pachgaon. Later on, he lodged the First Information Report (FIR).

4. Mr. Mankapure, learned Counsel for the applicant, submits that gang leader and other accused have already been released on bail by this Court on 15th July, 2021 and 30th November, 2021. Although, the applicant was duly identified in test identification parade but that parade took place almost after six months. Learned counsel also invited my attention to the injury certificate of informant and pointed out that injuries allegedly sustained at the hands of applicant and others were simple in nature. Investigation is over. Charge-sheet has been filed. In such circumstances, the applicant deserves to be enlarged on bail, urged learned Counsel.

5. Mr.Palkar, learned APP, on the other hand, opposes the submissions by contending that a confessional statement given by one of the co-accused clearly implicates the applicant and others. Although, the said confessional statement was not earlier part of the charge-sheet, however, the same is produced by learned APP during the course of argument. According to learned APP, having regard to the seriousness of

offence, the applicant does not deserve to be enlarged on bail.

6. Perused investigation papers. The only incriminating evidence appearing on record against the applicant is twofold. First, the test identification parade wherein present applicant came to be duly identified by informant. However, it is pertinent to note that the test identification parade was carried out on 14th November, 2018 whereas the incident in question took place on 3rd May, 2018 i.e. after more than six months of the alleged offence. How far and to what extent evidentiary value is to be attached to the findings of test identification parade will have to be decided by learned trial Court at the time of trial, it being a corroborative piece of evidence.

7. Second, the so called confessional statement of co-accused recorded under Section 18 (1) of the MCOCA Act. The said accused is Sushant Balasaheb Desai. I have carefully gone through his confessional statement. In his statement, he

alleges that the present applicant and others had beaten informant in the car. As far as his own role is concerned, according to him, he had not indulged in any kind of beatings. Thus, his statement is of purely exculpatory in nature.

8. It is also relevant to note here is that gang leader, namely, Yogesh Balaso Rane and other accused, namely, Akash Ananda Aaglave have been released on bail by this Court on 30th November, 2021 and 15th July, 2021 respectively. I do not see any reason to differentiate the role of present applicant and others, who are already on bail.

9. For the aforesaid reasons, I am inclined to allow the application. Hence, the following order :

ORDER

(i) Applicant- Prasad Suresh Ghatage shall be released on bail in C.R. No. 202 of 2018 registered with Juna Rajwada Police Station, Kolhapur on his executing P.R. Bond in the sum of Rs. 25,000/-

with one or two surety/ sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the trial Court proceedings regularly.

(iv) Bail before the trial Court.

(v) It is made clear that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(vi) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)