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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.282 OF 2021

Obedullah Abdul Rashid Radiowala @]

Obed Radiowala] .. Applicant

vs.

The State of Maharashtra] .. Respondent

Ms.Nazneen Khatri for Applicant.

Mr.S.V. Gavand, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 10TH AUGUST, 2022.

P.C.

1] The applicant was arraigned as an accused in MCOC Special Case No.2/2015 registered by DCB CID vide CR No.104/2014 and alongwith him total 14 accused persons were arraigned as accused. 12 persons were tried by the Special Judge under MCOC Act in MCOC Special Case No.2/2015. On 25.04.2018 in the same case, the present applicant alongwith Sarwan Inder Singh were shown as wanted accused.

2] On being tried, the Special Court delivered Judgment on 25.04.2018 and acquitted all the accused persons of the offence punishable under MCOC Act and in Para 118 recorded that there is no evidence against absconding accused and accused Nos.1 to 10 for the

offence under MCOC Act and no link is established with the absconding accused.

On trial, 11 accused persons were convicted for the offence punishable under Section 120-B read with 302 read with 511 and Section 115 of the Indian Penal Code and distinct penalty were imposed upon the convicted accused Nos.1 to 10.

3] The present applicant came to be arrested after delivery of the said Judgment as he was deported from USA vide a Red Coroner Notice being issued against him and he was produced before the Special Court on 03.04.2019. Since then he is in custody facing charge under Section 120-B read with 302 read with 511 and 465, 468, 471 read with 511 of the Indian Penal Code and Section 25(3) of the Arms Act.

4] I have perused the charge-sheet. The applicant has been attributed the role of arranging financiers from US and money is alleged to have been transferred to accused No.10, who happens to be his brother. In any case, there is acquittal for the offence under MCOC Act and as far as offence under Section 120-B, Section 115 alongwith Section 302 of the Indian Penal Code is concerned, barring the confessional statement made by the co-accused, there is no material against the present Applicant, prima facie, indicating him.

5] The applicant faces accusation that a sum of Rs.3,50,000/- was advanced by him to co-accused (Anis) during the commission of alleged crime. The connect between the present Applicant and accused No.10 cannot be looked with suspicion since the two are brothers. The learned counsel for the Applicant submits that the amount was

advanced by him for taking care of their mother. In any case, prima facie in absence of concrete material leading to the guilt of the Applicant, merely on the allegation that sum of Rs.6 Lakh to Rs.7 Lakh was transferred to his brother's account, when there is already acquittal under the provisions of MCOC Act, further incarceration of the Applicant is unnecessary. He shall, however, face the trial.

6] It is made clear that the observations made above are restricted for determination of the application and the trial Court in any way shall not be influenced by the said observations, limited and restricted for this purpose. Hence, the following order :

(a) Application is allowed.

(b) Applicant – Obedullah Abdul Rashid Radiowala @ Obed Radiowala shall be released on bail in connection with C.R.No.104 of 2014 registered with DCB CID on furnishing P.R. bond to the extent of Rs.50,000/- with one or two sureties of the like amount.

(c) The Applicant shall surrender his Passport before the Special Court within a period of 7 (Seven) days of his release.

(d) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(e) The Applicant shall regularly attend trial, on every date, unless he is exempted.

[BHARATI DANGRE, J]