

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

CRIMINAL BAIL APPLICATION NO. 681 OF 2022

Sanjay Kashinath Chandanshiv ...Applicant

Versus

State Of Maharashtra ...Respondent

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Mr. Satyam H Nimbalkar i/by Mr. Abhishek Arote a/w Mr. Ruturaj J. Ranaware, Advocate for the Applicant.

Ms. P. N. Dabholkar, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 10th OCTOBER, 2022

PER COURT:

1. This is an application for bail in connection with C.R. No. 352 of 2017 registered with Pimpri Police Station for offences under Sections 302, 511, 212, 216, 219, 223, 224, 225, 120-B read with 34 of the Indian Penal Code and section 3(1)(ii), 3(2), 3(3), 3(4) and 24 of the MCOC Act and sections 3, 5, 25, 27 and 37 of the Arms Act. The said case is pending before the M.C.O.C. Court, Pune.

2. The case of prosecution is accused Raju Kalya Mahadev Patve, Santosh Jagtap, Santosh Chadilkar were proceeding from Yerawada Jail through Government vehicle

towards Court of JMFC Khandala Court, District Satara. When they were returning towards Yerawada Jail through Katraj Ghat, the accused requested to stop vehicle to answer nature's call. Vehicle was stopped. The accused ran away from the custody of police. The informant Sanjay Chandanshiv filed report at Bharati Vidyapeeth Police Station, Pune on 11.04.2017 and C.R. No. 183 of 2017 was registered under Section 224 read with 34 of the IPC. During investigation it was revealed that applicant acted in connivance with gang member Santosh Chandilkar. Provisions of MCOC Act were invoked.

3. Heard Mr. Satyam H Nimbalkar, learned counsel for the applicant and Ms. P. N. Dabholkar, APP for the State.

4. The applicant herein was a police naik. It is alleged that on 10th April 2017, the co-accused Raju alias Kaliya, Santosh Jagtap and Santosh Chandilkar were taken from Yerwada Jail to Khadala Court to attend the Court hearing. On their return journey from Khandala Court to Yerwada, the police escort stopped the vehicle on a highway dhaba, Khed Shivapur Road at Kondanpur Phata. Three persons came to the dhaba in a Swift Car and had some discussion with the

three under trial prisoners. The accused Chandilkar told the escort-Khade that he wanted to meet his advocate Mancharkar at Pimpri. It is alleged that Khade had made a phone call to the applicant and thereafter applicant told the driver Suryanarayan to take the vehicle to Pimpri. Since the driver refused to take the Government vehicle to Pimpri, Chandanshive allowed the accused to travel to Pimpri by Swift Car. Subsequently, he received a phone call stating that the accused Chandilkar, Jagtap and Raju Patre had escaped from the custody.

5. It is alleged that the accused Subhash Khade and the applicant while taking accused No.1, 2 and 15 to Court from jail were in contact with accused No.10 Vijay Waghmare on phone. The accused No.1, 2 and 15 requested that they may be taken to Pimpri and the said fact was informed by applicant and co-accused to accused No.10. Since the driver refused to take vehicle to Pimpri, the applicant and co-accused were permitted to go to Pimpri by private vehicle. False complaints were lodged with Bharati Vidyapeeth Police Station instead of Pimpri Police Station. confessional statement of accused were recorded. Several cases were registered against the gang leader.

6. Accused No.10 Vijay Waghmare is granted bail by this Court vide order dated 06.12.2021. He is the Police Naik and in-charge of allotting duties of escort party. While granting bail this Court had observed that charge -sheet is filed on completing investigation. Statements of Suryanarayan and Vijay Mandhare are against the said applicant. There is no material to show involvement of the said applicant in commission of crime under Section 302 read with 115 of the IPC. The maximum punishment for the offence under Section 24 of MCOC Act, is imprisonment for three years. The said applicant is in custody from 17.09.2017. Charge is not framed. Co-accused Subhash Khade was granted bail by this court vide order dated 06.10.2022. Co-accused Vishal @ Gidya Nagu Gaikwad was also granted bail by this Court vide order dated 04.02.2021 passed in Criminal Bail Application No.796 of 2019. While granting bail it was observed that the evidence against him is that he came in Swift Car near hotel Palange Biryanis, where the accused stepped into his car and fled. Three accused sat in his car and left the spot. Prima facie the material does not show the complicity of the accused in the crime.

7. The applicant is in custody from 18.12.2017. The applicant has not connection with the crime syndicate. He has not acted as a member crime syndicate in the past. There are no criminal antecedents against the applicant. It is debatable whether provisions of MCOC could be invoked against the applicant. He was employed in Police Department. Prima facie it appears that the applicant is also charged under Section 24 of the MCOC Act. Considering the aforesaid circumstances, rigor under section 21(4) would not be sufficient to deny bail to the applicant. Hence, bail can be granted to the applicant on following terms and conditions:-

ORDER

- (i) Criminal Bail Application No.681 of 2022 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No.352 of 2017 registered with Pimpri Police Station 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 provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant,

witnesses or any person concerned with the case;

(v) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(vi) The applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

(vii) Bail Application stands disposed of in above terms.

(PRAKASH D. NAIK, J.)