

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.536 OF 2022**

Mohammed Akhtar Hussain Shaikh .. Applicant
@ Akhtar Chacha

Versus

The State of Maharashtra & Ors. .. Respondents

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Mr.Satyaram R. Gaud i/b Menon & Co. for the Applicant.

Ms.Rutuja Ambekar, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.

DATED : 13th JUNE, 2022

P.C:-

1. The applicant is apprehending his arrest in C.R.No.1157 of 2021 registered on 10/08/2021, invoking Sections 384, 385, 506 read with Section 34 of the Indian Penal Code, 1860 (for short, **“the IPC”**) and Sections 3(1),(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (for short, **“the MCOC Act”**).

2. Heard the learned counsel for the applicant, who would urge that the applicant is falsely implicated in the said C.R., on unsubstantiated facts. He would submit that the provisions of

the MCOC Act, which were subsequently added to the C.R., cannot be sustained against the present applicant and, therefore, he should be released on bail, in anticipation of his arrest, since the registration of the F.I.R. is an abuse of process of law and it does not disclose commission of any cognizable offence.

3. Heard the learned A.P.P. and perused the complaint, resulting in registration of the F.I.R..

The complaint filed by one Mushtaq Ali Shaikh states that he is residing at the address given in the complaint and he had purchased one open plot, admeasuring 1619 Sq.Mtr. from one Stanly Gonsawalis for consideration of Rs.3,04,00,000/- by executing an agreement and he had parted with the sum of Rs.50,00,000/- in favour of the family members of Stanly Gonsawalis.

The complainant further alleged that on 26/07/2021 at around 5.00 p.m. when he was enroute to his house alongwith his son, he crossed path with one Irfan Ahmed Shaikh, who got into his car and informed him that a person by name Sattu had called him on Marve Road and while he was being driven to the spot, the car was stopped and one person entered in the car. The complainant's son was asked to step out of the car and the person by name Sattu sat on the rear side. He told the complainant that he was asked by Akhtar Chacha (applicant) and Aslam Khan to involve him in a rape case or POCSO case or case for attempt to murder, as result of which, he will be

behind the bar for 3 to 4 months and they can take the possession of his open plot.

The complainant got frightened and he asked Sattu to work out the via media, which was also offered, to the effect that, if he pays Rs.5,00,000/- to the applicant, he would invite no false case, but failure to do so will result in serious consequences. Thereafter, the complainant allege that money was demanded by Sattu and, accordingly, he paid Rs.49,000/- on one occasion, and Rs.99,000/- on the other. He was also confronted with the letter, which was in form of complaint prepared by the applicant, where one Shabina was shown as complainant, allege that the complainant had committed a misdeed with her and levelled various accusations in order to falsely implicate him. On payment of money, Sattu tore the letter and assured the complainant that he should not be scared, any more.

On the basis of the above accusations, Sattu, Akhtar Chacha (applicant), Aslam Khan and one unknown person were arraigned as accused.

The provisions of the MCOC Act were invoked in the same C.R. with Sattu being named as a gang leader.

4. The learned A.P.P. states that the investigation in the said C.R. is in progress and she has invited my attention to the statements of two persons, recorded on 12/04/2022, who implicate the present applicant, by stating that he was closely associated with the well known criminal Satyanarayan alias Sattubhai and the two statements record that they used to frequently meet in the office of the applicant, where long

discussion used to take place. It is also stated that Sattu has tremendous control in the locality and before two years, there was some discord between the applicant and Mushtaq revolving around one open plot at Rathodi Chaya in which Sattubhai was assisting the applicant against Mushtaq and the offences were registered against the applicant and Sattubhai in Malvani Police Station.

5. The two statements collated during the course of investigation, connect the present applicant to the gang leader Sattubhai and, since, the investigation is in progress, for discerning the association of the applicant with the gang leader and their operation as an organised crime syndicate, the applicant do not deserve any protection from arrest.

The application is rejected.

(SMT. BHARATI DANGRE, J.)