

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

CRIMINAL BAIL APPLICATION NO.1038 OF 2021

Lahu Janardhan Mane ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr.Kuldeep S. Patil a/w Ms.Saili Dhuru for the Applicant.

Mr.Y.Y. Dabke, APP for the Respondent –State.

Mr.Ratandip S. Bhandare, PSI Bhuinj Police Station.

CORAM : C.V. BHADANG, J.

**DATE : 10 FEBRUARY 2022
(Through Video Conferencing)**

P.C.

. By this Application, the Applicant-Lahu Mane (Accused No.7) is seeking bail. The Applicant along with 10 others has been charge-sheeted for the offence punishable under Section 307, 326, 143, 147, 148, 149 of Indian Penal Code, Section 3, 5/25 of the Arms Act and Section 3(1)(i), 3(2) and 3(4) of the Maharashtra Control of Organized Crimes Act, (MCOC Act) arising of the Crime No.44 of 2019 registered with Bhuinj Police Station, District-Satara.

2. The Applicant was arrested on 10 July 2019 and he is in jail since then.

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3. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. With the assistance of the learned counsel for the parties I have gone through the record and in particular the order dated 24 February 2021 passed by this Court (Sarang V. Kotwal, J.) in Criminal Bail Application No.297 of 2020, by which the co-accused Akshay Jalindar Hargude (Accused No.4) has been released on bail.

4. The learned counsel for the Applicant has sought parity with the co-accused Akshay. It is pointed out that the role attributed to the Applicant, is similar to the co-accused Akshay. It is pointed out that at present there are no criminal antecedents to the discredit of the Applicant and there is no specific role attributed of any assault of the injured by the Applicant.

5. The learned Additional Public Prosecutor has submitted that the Applicant had alighted from the car along with gang leader Rohidas @ Bapu Chorghe. There is a CDR record showing that the Applicant was in contact with the other members of the organized crime syndicate.

6. The learned Additional Public Prosecutor has placed reliance on the decision of the Supreme Court in ***Kavitha Lankesh V/s. State of Karnataka and Others***¹, in order to submit that a member of the gang can also subsequently join the same

and it is not necessary that he has criminal antecedents in respect of the previous organized crime, if any.

7. I have considered the submissions made. It appears that the incident had happened in the night on 25 March 2019 at about 1.00 a.m. The complaint in this case was lodged by Pandurang Pawar who was working with Anewadi Toll Plaza. He stated that a car bearing No. MH-12-NJ-302 passed through Toll Plaza without paying toll. The car was stopped little ahead. However, the driver refused to pay the toll claiming that he was partner of the Khed-Shivapur Toll Plaza. He stated that driver and other occupants of the car started quarreling with the informant and abused him. In the meantime they contacted somebody telephonically, after which within 5 to 10 minutes two Fortuner cars came there. There were four to five persons who got down. The informant has identified one of them namely Rohidas @ Bapu Chorghe who according to the prosecution is a gang leader of the syndicate. The passengers in the Swift car informed Rohidas @ Bapu Chorghe that they were assaulted. It is at this point of time that Rohidas @ Bapu Chorghe took out a pistol and fired at the informant who started to flee from the spot. In the meantime Mr. Vishal Raje who was with the first informant fell down. It is Vishal Raje who is injured in this case.

8. Upon hearing the learned counsel for the parties, it is clear that there is no specific role or any overtact or an assault attributed to the Applicant or Vishal Raje or any other person accompanying the informant. Thus, except the presence of the Applicant on the spot which is not seriously disputed there is no overtact attributed of the Applicant taking part in the actual assault. There is no recovery of any incriminating article from the Applicant. Insofar as the Criminal antecedents are concerned, the learned counsel for the Applicant pointed out page No.575 of the compilation which shows that out of the four cases (including the present case), the prosecution has filed a report under Section 169 of Cr.P.C., in one case, thereby discharging the Applicant and in two cases he has been acquitted. Thus, the present case is the only case stated to be against the Applicant. In that view of the matter, the learned counsel for the Applicant is right that the Applicant as on today has no criminal antecedents to his discredit.

10. In my considered view, the Applicant is similarly situated to that of Mr.Akshay Hargude (Accused No.4) who has been granted bail.

11. In *Kavitha Lankesh* there was a challenge to the approval granted under Section 23(4) of the Karnataka Control

of Organised Crimes Act, 2000 this is what is held in paragraph 27 of the judgment.

“However, if the role of the offender is merely that of a facilitator or of an abettor as referred to in Section 3(2), 3(3), 3(4) or 3(5), the requirement of named person being involved in more than two chargesheets registered against him in the past is not relevant. Regardless of that, he can be proceeded under the 2000 Act, if the material collected by the Investigating Agency reveals that he had nexus with the accused who is a member of the organized crime syndicate or such nexus is related to the offence in the nature of organized crime. Thus, he need not be a person who had direct role in the commission of an organized crime as such.”

It can thus clearly be seen that if there is material collected by the Investigating Agency which reveals that particular accused had nexus with the other accused who is member of the organized crime syndicate or such nexus is related to the offence in the nature of organized crime, then he need not be a person who had direct role in the commission of the organized crime as such.

12. Coming to the present case *prima facie* it is not shown that the incident was premeditated or it was the Applicant who had called Rohidas @ Bapu Chorghe or any of the members of the organized crime syndicate on the spot. Thus *prima facie* there is no material to show that the Applicant had nexus with the organized crime syndicate.

13. In the result the following order is passed.

ORDER

(i) The Applicant be released on bail in C.R. No.44 of 2019 registered at Bhuinji Police Station, District-Satara, furnishing a PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one or two solvent sureties in the like amount.

(ii) The Applicant shall attend the concerned police station every fortnight for a period of one year from today and he shall attend the trial on every date.

(iii) The Applicant shall not tamper with the evidence or influence the witnesses in any manner.

(iv) The Application stands disposed of accordingly.

C.V. BHADANG, J.