

pressed the application seeking his enlargement on bail. The same is recorded in the order dated 2nd February 2021, which is from page numbers 541 to 548 of the application.

3. The ground on which the second bail application is preferred by the applicant is that similarly placed co-accused – Puru @Bhuta P. Rathod has been granted bail by this Court (Coram: Prakash D. Naik, J.), vide order dated 25th February 2022, passed in Criminal Bail Application No.3707 of 2021, i.e. 2nd bail application of co-accused – Puru @Bhuta P. Rathod.

4. Learned Counsel for the applicant submits that the role of the applicant is identical to that of co-accused –Puru @Bhuta Rathod, who has been enlarged on bail by this Court vide order dated 25th February 2022. He submits that co-accused – Puru @Bhuta Rathod, first bail application was rejected on merits and that he was granted bail subsequently i.e. in the second bail application preferred by the said co-accused.

5. Learned APP does not dispute the fact that the role of the applicant is identical to that of co-accused – Puru @Bhuta Rathod, who has been enlarged on bail. She, however, submits that the applicant has two antecedents i.e. C.R. No.57 of 2015 registered with the Market Yard Police Station, Karnataka, for the alleged offences punishable under Sections 457 and 380 of the Indian Penal Code and C.R. 553 of 2016 registered with the Narpoli Police Station, Bhiwandi, for the alleged offences punishable under Sections 454, 457, 380, 34 of the Indian Penal Code.

6. Perused the papers. The complainant, an employee of Proconnect Supply Solutions Limited was working as a Assistant General Manager with the said company. The said company had its godown at Gala Nos. 1 to 10, Building No.E/6, Behind Cipla Company, Pimpalas Road, Pimplas Gaon, Taluka Bhiwandi in which electronic goods of various companies were stored. It is alleged that about 50 members were working in the said godown at the relevant time. The incident is alleged to have taken place on 10th January 2017. It is alleged by the complainant that he received a telephonic call from a security guard of the said company

informing him that a theft had taken place in the said godown, pursuant to which, he rushed to the spot. On reaching the spot, he saw the Shutter No.11 of the godown was broken and that the accused had committed theft of mobile phones, I-pods, Chargers and USB cables worth Rs.42,19,940/-. Pursuant thereto, a complaint was lodged as against an unknown persons alleging the aforesaid offences. During the course of investigation, the applicant was arrested on 17th January 2017 for the alleged offences punishable under the I.P.C. Subsequently MCOC Act came to be invoked. After investigation charge sheet was filed against the applicant and all other co-accused. The applicant is in custody for more than 5 years. The applicant's first bail application was disposed of as not pressed and not on merits. Although, 5 years have lapsed, the trial has not yet commenced and not a single witness has been examined till date. Although, co-accused – Puru @Bhuta Rathod's bail application was rejected on merits, he was subsequently granted bail after 3 years by this Court vide order dated 25th February 2022. All the accused are on bail including the main accused i.e. the gang leader Laxman @Lucky C. Chauhan. It is not in dispute that the role of the applicant is identical to that of co-accused – Puru @Bhuta Rathod, who is enlarged on bail. The prosecution has cited about 75

witnesses, that it proposes to examine. The minimum sentence that can be imposed under the MCOC Act is 10 years. The applicant has undergone more than 50% of the sentence, if at all the applicant is convicted for the said offence. The main accused i.e. the gang leader Laxman @Lucky despite having antecedents, has been enlarged on bail.

7. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the

concerned Police Station;

(iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station or if the applicant fails to appear before the trial Court, or there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

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

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.