

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 954 OF 2022

Azad S. Pathan

...Applicant

V/s.

The State of Maharashtra

...Respondent.

Mr. Shailesh Chavan for the Applicant.

Mr. V.B. Konde-Deshmukh, APP for the Respondent/ State.

CORAM : N.R. BORKAR, J.
DATE : 24.11.2022.

P.C. :

. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in C.R. No. 248 of 2020 registered at Mahatma Gandhi Chowk Miraj police station, Sangli for the offence punishable under Sections 307, 341, 323, 504, 506, 143, 144, 147, 148, 149, 120-B, 385, 387 of the Indian Penal Code (IPC), Section 4 read with 25 of the Arms Act and Section 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ('MCOC Act').

3. I have heard the learned counsel for the applicant and the learned APP for the State.

4. According to the prosecution on 3 December 2020, the present applicant and other co-accused assaulted the complainant

Dinesh S. Sherla

This order is corrected in pursuance to
the speaking to minutes order dated 9.12.2022

and attempted to kill him as he was not paying extortion money to them. During the course of investigation, it was found that co-accused Shaukat Shaikh is a gang leader of organised crime syndicate and the applicant and other co-accused are it's members. The offences punishable under the MCOC Act were thus invoked.

5. The learned counsel for the applicant submits that after registration of crime and before invocation of the provisions of MCOC Act, the present applicant was arrested and was released on bail. It is submitted that after invocation of the offences punishable under the MCOC Act, the applicant again came to be arrested. It is submitted that there is no evidence to connect the applicant with the alleged organised crime syndicate, of which according to the prosecution the co-accused Shaukat Shaikh is gang leader. It is submitted that the applicant is not involved in any other crime with said Shaukat Shaikh. It is thus submitted that the applicant may be released on bail.

6. On the other hand, the learned APP for the respondent/State submits that considering the nature of offence, the applicant may not be released on bail. The learned APP has, however, not disputed that before invocation of provisions of MCOC Act, the applicant was released on bail.

7. Admittedly, the applicant is not an accused with the gang leader in any other crime. Except the involvement of the applicant

in the present crime with gang leader, *prima facie* there appears to be no other material to connect the applicant with him or his organised crime syndicate. The applicant is not involved in any other crime with alleged gang leader Shaukat Shaikh. Considering the facts and the circumstances of the case and as the applicant is in jail for more than 1 and ½ years, I am inclined to release the applicant on bail. Hence, the following order is passed :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant be released on bail in C.R. No. 248 of 2020 registered at Mahatma Gandhi Chowk Miraj police station, Sangli for the offence punishable under Sections 307, 341, 323, 504, 506, 143, 144, 147, 148, 149, 120-B, 385, 387 of the IPC, Section 4 read with 25 of the Arms Act and Section 3(1)(ii), 3(2) and 3(4) of the MCOC Act on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend the concerned police station once in a month, i.e., on first Saturday between 11:00 a.m. to 2:00 p.m. till the conclusion of trial.

[N.R.BORKAR, J.]