

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

BAIL APPLICATION NO. 1362 OF 2021

Sachin Dilip Rakshe	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Aniket U. Nikam for the Applicant.
Mr. A.A. Palkar, APP for the State.
Mr. Vaibhav S., API, Shikrapur Police Station, Pune Rural.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th NOVEMBER, 2022.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in MCOC Special Case No.28/2018 pending on the file of Additional Special Judge under MCOC Act, Pune for offences punishable under sections 394, 120-B r/w. 34 of the Indian Penal Code and sections 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crime (MCOC) Act, 1999.

2. Heard Mr. Nikam, learned counsel for the Applicant and Mr. Palkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. One Shri. Mohsin Tamboli had lodged the First Information Report (FIR) dated 20/11/2017 alleging that some unknown persons stopped his motorcycle, assaulted him and fled away with a bag containing cash of Rs.15 lakhs. Based on the said FIR, C.R.No.595/2017 came to be registered with Shikrapur Police Station, Pune against unknown persons for offences punishable under sections 394, 120-B r/w. 34 of the Indian Penal Code. Subsequently, provisions under MCOC Act came to be invoked.

4. The Applicant herein was arrested on 29/11/2017. Test Identification Parade was conducted on 30/12/2017 wherein the Complainant has identified the Applicant. It is pertinent to note that in the supplementary statement which was recorded before the Test Identification Parade, the Complainant had stated that he was informed by the police that the Applicant herein was arrested in the said crime and that stolen cash was recovered from the Applicant and the other co-accused. The supplementary statement thus prima faice reveals that the identity of the Applicant was disclosed to the Complainant even before holding the Test Identification Parade.

5. The witness Sunil Bhise has stated that he had heard

conversation between the co-accused who were sitting in a vehicle. The said vehicle was intercepted and cash of Rs.4 lakhs was recovered from the said jeep. The records do not indicate that the Applicant was present in the said vehicle or that he had participated in the said conversation. The material on record does not prima facie indicate that the Applicant was part of the conspiracy.

6. The only other material against the Applicant is the role attributed to him by the co-accused – Shubham Anil Saswade in statement under section 18 of the MCOC Act. Similar was the material against the co-accused Shubham @ Vicky Vitthal Jadhav, who has been granted bail by the Co-ordinate Bench of this Court. The Applicant is therefore entitled for bail on the ground of parity.

7. The material on record does not prima facie show the complicity of the Applicant. Under the circumstances, the bar under section 21(4) of the MCOC Act would not operate. Moreover, the Applicant is in custody since the year 2017. It is stated that charge is not yet framed. Detaining the Applicant in custody indefinitely would be in violation of his rights to liberty. Under the circumstances, the Application is allowed on the following terms and conditions :-

- (i) The Applicant – Sachin Dilip Rakshe who is facing trial in MCOC Special Case No.28/2018 pending on the file of Additional Special Judge under MCOC Act, Pune arising from C.R.No.595/2017 registered with Shikrapur Police Station, Pune, is ordered to be released on bail on furnishing P.R. bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount ;
- (ii) The Applicant shall report to Shikrapur Police Station, Pune on 1st Monday of every month between 11.00 a.m. to 02.00 p.m. until further orders ;
- (iii) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;
- (iv) 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.
- (v) The Applicant shall co-operate with the conduct of the trial

and attend the trial Court on all dates, unless exempted.

8. Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

**PREETI
H JAYANI**

Digitally signed by
PREETI H JAYANI
Date: 2022.12.01
13:49:10 +0530