

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

BAIL APPLICATION NO. 1208 OF 2022

Raju @ Rajendra s/o. Kaluram
Shevale

.... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. K.N. Shermale for the Applicant.

Mr. A.A. Palkar, APP for the State.

Mr. S.P. Mokashi, Police Hawaldar, Jejuri Police Station.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th NOVEMBER, 2022.

P. C. :-

. This is an Application under section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in Special MCOC Case No.18/2017 pending on the file of Additional District and Sessions Judge, Pune for offences punishable under sections 394, 397, 109 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. Shermale, learned counsel for the Applicant. He states that the material on record prima facie does not prove the involvement of the Applicant in the aforesaid crime. He states that the Applicant was not named by the Complainant and that he has not been

identified. He states that the Applicant is in custody since the year 2017 and till date, charge is not framed.

3. Mr. Palkar, learned APP states that the stolen cash as well as the pulsar motorcycle used by the Applicant and the other co-accused in commission of the crime, has been recovered at the instance of the Applicant. It is stated that the Applicant has criminal antecedents and hence, he is not entitled for bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. Pursuant to the First Information Report (FIR) lodged by Satish Tatyaba Thorat, C.R.No.31/2017 came to be registered at Jejuri Police Station, Pune Rural against unknown accused for committing offence punishable under section 394 of the Indian Penal Code. The Complainant is driver of pick up bearing No.MH-42-M-5385. He claims that a pulsar motorcycle overtook the pick up and stopped in front of the pick up. He was therefore compelled to stop the vehicle. He claims that the rider of the pulsar motorcycle demanded money whereas the pillion rider snatched the keys. They assaulted him and fled away with

cash of Rs.3,000/- and two sets of mobile phones worth Rs.3,000/-.

6. It is to be noted that the Complainant had not named the Applicant in the FIR. The material on record reveals that though the Identification Parade was scheduled, the Applicant was not produced for the purpose of identification. No further steps were taken to establish the identity of the Applicant. As a consequence, identity of the Applicant is not established.

7. The Applicant was arrested on 10/03/2017. It is stated that cash of Rs.1,500/- was recovered from the Applicant. There is no material to show that the said amount has nexus with the crime proceeds. It is also stated that the pulsar motorcycle was recovered at the instance of the Applicant. The Complainant has not identified the said vehicle. Moreover, there is no prima facie material to show that the pulsar motorcycle was used for commission of the crime.

8. The identity of the Applicant has not been established and there is no prima facie material on record to prove his involvement in the crime. Hence, bar under section 21(4) would not be attracted. Considering the nature of accusations as against the Applicant, he is

entitled for bail. Moreover, it is seen that the Applicant is in custody since 2017. It is stated that till date, charge is not framed. Considering the large pendency, there is no possibility of the trial to commence or conclude in immediate future.

9. Under the circumstances and in view of discussion supra, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is facing trial in Special MCOC Case No.18/2017 pending on the file of Additional District and Sessions Judge, Pune arising from C.R.No.31/2017 registered with Jejuri Police Station, Pune Rural, is ordered to be released on bail on furnishing PR. bonds in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;
- (ii) The Applicant shall report to Jejuri Police Station on 1st Monday of every month between 11.00 a.m. to 02.00 p.m. till framing of the charge ;
- (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.

10. Bail Application stands disposed of in above terms.

PREETI
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JAYANI

(SMT. ANUJA PRABHUDESSAI, J.)

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