

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2528 OF 2021

Nandu Mukund Bhoine	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr. Sachin Deokar, for the Applicant.
Mr. S. R. Agarkar, APP for the Respondent / State.
HC A. J. Darekar, Kamshet Police Station, Pune Rural.

CORAM : C.V. BHADANG, J.
DATE : 10 MARCH 2022

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. By this Application, the Applicant (Accused No.5) is seeking release on bail, in Crime No.86/2019 of Police Station Kamshet Takwe, Pune (Rural), under Section 364-A, 386, 324, 323, 504 and 506 r/w. 34 of IPC, Section 3/25 and 4/27 of the Indian Arms Act and Section 3(1)(i)(ii), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act).

2. The aforesaid crime is registered on the basis of the complaint dated 30 March 2019 lodged by Rajendrasingh Parmar. The informant is having a cloth shop at Kamshet. The informant got

acquainted with the Accused No.3 Swati Shelke somewhere in March 2019. According to the informant, Accused No.3 lured / induced the informant to have relationship with her. The informant had sexual intercourse with the Accused No.3 with her consent on 29 March 2019 at Sunrise Hotel, Jambul Phata, Maval, Pune. After the informant and Accused No.3 came out of the lodge, the Applicant and the co-accused are alleged to have abducted him and he was allegedly taken to the house of the present Applicant where he was assaulted and threatened with a demand of Rs.25 Lakhs else at the risk of informing the incident of the sexual intercourse to the husband of the Accused No.3 who was stated to be in military. According to the informant, he was assaulted with a bamboo and an iron pipe and he was released only after accused extorted an amount of Rs.96,000/-, out of which Rs.90,000/- was transferred by Google Pay in the account of the wife of Accused No.4 Dhanaji Jadhav, apart from Rs.6,000/- to the Accused No.2 Avinash Salve.

3. On the basis of such a complaint, the offence came to be registered in which the Investigating Agency invoked the provisions of MCOC Act. During the course of the investigation, the confessional statement of Accused Nos.1 to 5 were recorded under Section 18 of the Act and after the approval from the Competent Authority on 10 June 2021, the chargesheet came to be filed. In

short, according to the prosecution, the Applicant being the member of the Organised Crime Syndicate of which the Accused No.1 Yuvraj Mane was the gang leader had lured the informant in having sexual relationship with Accused No.3 and thereafter had abducted the informant, assaulted him and made demand of Rs.25 Lakhs, out of which, an amount of Rs.96,000/- was extorted in order to have wrongful gain for the syndicate. The prosecution claims that the Applicant and the co-accused have criminal antecedents, which are part of the continuing unlawful activities of the syndicate.

4. I have heard the learned counsel for the Applicant and the learned APP.

5. It is submitted by the learned counsel for the Applicant that the Applicant has been falsely implicated. He pointed out that the Applicant has only one criminal antecedent in the nature of an offence under Section 379 of IPC being Crime No.299/2016 with Police Station Paud, District Pune, which is in individual capacity and not as part of the activities of the syndicate. He submitted that the Applicant has no common cases either with the gang leader Yuvraj Mane (Accused No.1) or any other co-accused. He therefore submitted that the invocation of the provisions of MCOC Act against the Applicant is illegal and uncalled for. He pointed out that the Applicant was arrested on 4 April 2019 and the Test

Identification Parade (TIP) was conducted on 18 June 2019. He submitted that the TIP was conducted belatedly, for which there is no explanation. He submitted that the TIP loses significance on account of the said delay. He submitted that the reason for identification in the TIP is inconsistent with the FIR and the supplementary statement of the Complainant is not recorded after TIP. He submitted that the investigation is complete and the chargesheet is filed and the Applicant is not shown to be the beneficiary, as the amount is said to be transferred to the account of the wife of the Accused No.4 and some amount to the Accused No.2. He therefore submitted that the Applicant be released on bail.

6. Learned APP has submitted that there is a confessional statement by the Applicant as well as co-accused under Section 18 of MCOC Act, which is admissible in evidence. It is submitted that the informant was lured by the Accused No.3 and the co-accused and after the informant and Accused No.3 had engaged into sexual intercourse, the informant was abducted and demand of Rs.25 Lakhs was made and the amount of Rs.96,000/- has actually been extorted. He submitted that the Applicant is a member of the Organised Crime Syndicate and the incident is part of the continuing unlawful activity of the syndicate. The Applicant has

criminal antecedents against him and is not entitled to be released on bail.

7. I have carefully considered the rival circumstances and the submissions made.

8. It can *prima facie* be seen that the Applicant is not named in the FIR. The Applicant was arrested on 4 April 2019 and the TIP was conducted on 18 June 2019. A perusal of the confessional statement of Avinash Salve (Accused No.2) shows that according to the said Accused, Accused No.1 Yuvraj Mane informed him that two persons present in the house (alongwith the informant Rajendrasingh Parmar were one Dhanaji Jadhav (Accused No.4) and the present Applicant). It can thus *prima facie* be seen that the confessional statement of Avinash Salve does not show that he was knowing or could identify the Applicant as one of the persons present in the house. The amount of Rs.96,000/- which is said to be transferred by bank entries has not come to the account of the Applicant. Thus, *prima facie*, the Applicant is not shown to be the beneficiary of the amount of Rs.96,000/- which is said to be the wrongful gain of the syndicate. The Applicant is having a case under Section 379 of IPC being Crime No.299/2016 with Police Station Paud, District Pune, which appears to be an individual offence. At least, *prima facie*, at this stage, it is not shown that the

Applicant has any common criminal case with the gang leader Yuvraj Mane (Accused No.1) or any other co-accused. The investigation is complete and the chargesheet is filed. The Applicant was arrested on 4 April 2019 and is in custody for close to three years. The TIP was conducted on 18 June 2019 i.e. after two and half month. *Prima facie*, it appears that two accused were included at one time which according to the learned counsel for the Applicant is against the provisions of the Criminal Manual as to the conduction of the TIP. The trial is yet to commence. Thus, there is no possibility of the trial being concluded in the near future.

9. In such circumstances, I find that the Applicant can be released on bail on conditions.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Nandu Mukund Bhoine, be released on bail in Crime No.86/2019 of Police Station Kamshet Takwe, Pune (Rural), on executing a P.R. Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.
- (iii) The Applicant shall undertake to remain present before the learned Special Court, during the course of trial, unless exempted.

(iv) The Applicant shall not directly or indirectly make any attempt to contact, threaten the prosecution witnesses and shall not otherwise tamper with the prosecution evidence or witnesses.

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

(vi) Bail bonds to be furnished before the learned Special Judge.

C.V. BHADANG, J.