

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1423 OF 2020

Mahesh @ Machha Nandu Patole ...Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.Pankaj D. Purway for the Applicants.

Mr.N.B. Patil, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 30 MARCH 2022

P.C.

. By this Application, the Applicant (Accused No.4) is seeking bail in Crime No.306 of 2019, registered with Chichwad City Police Station, under Section 394, 341, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crime Act, 1999.

2. The aforesaid crime is registered on the basis of the complaint dated 31 August 2019 lodged by Raju Mohan Gambhire.

3. The informant is serving as a Security Guard with CISB Security and was posted at Empire Estate. On 29 August 2019 at about 10.20 p.m. while the informant was returning

home by his Splender Vehicle, the co-accused Ramesh @ Anna Ahiwale, Aakash @ Mamya Randive intercepted him and threatened him with life. Both of them thereafter asked him to get down from the vehicle and took him in a rickshaw in which the Applicant Mahesh Patole and the co-accused Rafique @ Rafya Shaikh were already sitting. All of them demand money from the informant, for drinking liquor. On his refusal the Applicant and co-accused Rafya assaulted him by fist blows. The co-accused Mamya Randive took out the mobile from his pocket and co-accused Anna Ahiwale slapped him and snatched Rs.1,200/- from him. The accused Rafya asked the informant to give his ATM Card, when the informant told that he is not having ATM card then he assaulted the informant on face and stomach by fist and kick blows, after which the informant was dropped out of the rickshaw and assaulted by fist and kick blows. Thereafter all the accused fled from the spot.

4. On such a complaint an offence came to be registered and on completion of investigation a charge-sheet is filed.

5. The learned Special Judge by an order dated 24 August 2020 has refused to release the Applicant on bail.

6. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. Perused record.

7. It is submitted by the learned counsel for the Applicant that there is no specific role attributed to the Applicant. It is submitted that the Applicant has only been arrested on suspension and invocation of the provisions of the MCOC Act is also improper as the previous offence, if any, committed cannot be said to be a part of the continuing unlawful activity of the syndicate. It is submitted that the Applicant is not a member of any Organized Crime Syndicate and the alleged confession made to the Police Officer also cannot be relied upon.

8. The learned Additional Public Prosecutor has submitted that there are criminal antecedents against the Applicant and there are common offence with the gang leader Aakash @ Mamya Randive. It is submitted that there is also confession recorded under Section 18 of the MCOC Act. The Applicant has been specifically named by the informant and no case for grant of bail is made out.

9. I have considered the circumstances and the submissions made. It can *prima facie* be seen that the informant in his complaint dated 31 August 2019 has specifically named the present Applicant and has also alleged an assault while sitting in the autorickshaw. There is a confessional statement of the Applicant recorded by the Competent Officer under Section 18 of the MCOC Act.

10. The reply filed by the State shows that apart from the present crime, there are three crimes registered against the Applicant being Crime No.227 of 2016 of Dehuroad Police Station, Crime No.259 of 2017 registered with Sangvi Police Station and Crime No.96 of 2019 of Chinchwad Police Station involving similar offences.

11. There is a separate crime chart annexed at page No.771 which shows that there are some common offences registered against the Applicant along with the gang leader Akash @ Mama Uttam Randive.

12. The record also discloses that according to the prosecution the Applicant was absconding and could be arrested only on 8 April 2021. No case for grant of bail is made out. The Criminal Application stands rejected.

C.V. BHADANG, J.