

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

BAIL APPLICATION NO. 1462 OF 2020

Samir Himmatlal Baig

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Kuldeep Nikam for the Applicant.
Mrs. A.A.Takalkar, APP for the State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 26th APRIL, 2022.**

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid applicant, who is facing trial in Special Case (MCOC) No.308 of 2020 pending on the file of the Addl. Sessions Judge and Special Judge under MCOC, Gr. Mumbai, for offences under Section 392, 341, 411, 34 of Indian Penal Code and Section 3(1)(ii) and 3(2) and 3(4) of the MCOC Act.

2. Heard Mr. Nikam, learned Counsel for the Applicant. He submits that the material on record would at the most indicate that the Applicant was in possession of the stolen property. He submits that there is no prima facie material to show the involvement of the Applicant in MCOC Case. He submits that the Applicant is in custody since 11.10.2019, and that till date the trial has not commenced. He therefore submits that the Applicant is entitled for bail.

3. Learned APP submits that the Applicant was found in possession of the stolen gold. She further submits that the Applicant and the leader of the organized crime syndicate were found together when the Investigating Officer had gone to arrest them. She further submits 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 Counsels for the respective parties.

5. A perusal of the complaint prima facie indicates that on 17.8.2019 at about 7.00 a.m. while the Complainant was walking on the road, two persons came on a motorcycle from the wrong side. They stopped her and asked some irrelevant questions. The pillion rider pushed her and snatched the mangalsutra from her neck and they fled away from the spot.

6. In the course of investigation, the co-accused Sarfaraz, the main leader of the organized crime syndicate and the co-accused Husseni Mukhtar were arrested. It was revealed that the accused who were involved in snatching the gold mangalsutra had sold the same to the Applicant. The Applicant was arrested and the gold mangalsutra was recovered from the Applicant.

7. The records prima facie indicate that the Applicant had received the stolen gold mangalsutra. There is no prima facie material to indicate that the Applicant herein was in any manner associated with, or

that he knew the main accused Sarfaraz, the leader of the organized crime syndicate, or that the Applicant had requisite knowledge and had agreed to do an illegal act or legal act by illegal means. Hence, prima facie, the provisions of MCOC cannot be invoked against the present Applicant. The only material against the Applicant is that he had received the stolen gold ornament, punishment for which is three years. The Applicant is in custody since 2019. Considering the above facts, the application is allowed on the following terms and conditions:-

- (ii) The Applicant who is facing trial in Special Case (MCOC) No.308 of 2020 pending on the file of the Addl. Sessions Judge and Special Judge under MCOC, Gr. Mumbai, be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the learned Addl. Sessions Judge, MCOC;
- (iii) The Applicant shall report to the Investigating Officer or Sr. P.I. of Bhoiwada police station on the first Monday of every two months until further orders;
- (iv) The Applicant shall attend all the dates before the trial Court till conclusion of the trial.
- (iv) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;
- (v) The Applicant shall provide his permanent as well as temporary

address, if any, and his contact details to the Investigating Officer and in the bail bond;

(vi) The Applicant shall not change his residential address without prior intimation to the Investigation Officer.

PRASANNA P
SALGAONKAR
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(ANUJA PRABHUDESSAI, J.)