

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

CRIMINAL BAIL APPLICATION NO. 2965 OF 2021

Shoaib Israil Shaikh ...Applicant
Versus
The State Of Maharashtra ...Respondent

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Ms. Shubhangi Parulekar, Advocate for the Applicant.

Ms. P. N. Dabholkar, APP for the Respondent – State.

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CORAM : **PRAKASH D. NAIK, J.**
DATE : **17th OCTOBER, 2022.**

PER COURT:

1. This is an application for bail in FIR No.225 of 2020 registered with Chikhali Police Station, Pimpri Chinchwad for offences punishable under Sections 307, 323, 504, 143, 144, 147, 148, 149 of Indian Penal Code (for short "IPC") and Sections 4 & 25 of the Arms Act. Subsequently Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organised Crime Act, 1999 (for short "MCOCA Act") were invoked.

2. The case of the prosecution is that, on 15.05.2020, while the complainant was returning home at about 9.45 p.m., the accused Vikas Jadhav, Sumit Mohol, Jay Karsule, Noor Mohammad Sayyed, Shoaib Shaikh (applicant), Vishal Kharat and 2 to 3 others approached the complainant and on account of previous quarrel

abused him. Vikas Jadhav @ Papyra assaulted him with sickle on his head. He evaded the blow and caught the sickle by his hand which has resulted injury to his palm. Sumit Mohol, Jay Karsule, Noor Mohammad Sayyed, Shoaib Shaikh (applicant) assaulted him with weapons. The other associates assaulted by fist and kick blows. The injured was taken to hospital. His statement was recorded on 16.05.2020.

3. The applicant was arrested on 17.05.2020. The investigation proceeded. Approval was sought for applying provisions of MCOC Act. Approval was granted and provisions under the MCOC Act were invoked against the applicant and others.

4. Learned Advocate for the applicant submitted that the applicant is in custody from 17.05.2020. There are no criminal antecedents against him. The applicant is not associated with the gang leader. He is not involved in any criminal activity with the gang leader. Supplementary statement of the complainant was recorded on 04.09.2020, wherein it is mentioned that the video relating to the assault upon him was circulated and hence in the presence of the panch witnesses and the Police, statement of the complainant was recorded with regards to the contents of the video. While watching the video, the complainant has named the

assailants and attributed role to them as reflected in the video recording. The said statement which is based on the video do not refer to the presence of the applicant. The panchanama with regards to the contents of the video is also recorded. The statement of the witnesses are on par with the first statement of the complainant. Their supplementary statements were recorded after video recording was viewed in the presence of panch and panchanama in that regard were recorded.

5. Learned APP submitted that the complainant's statement and the statements of witnesses referred to the presence of the applicant. The applicant has participated in the crime along with other accused. The injured was assaulted with weapon.

6. It is pertinent to note that the involvement of the applicant in assault is under doubt. In the light of the statement of complainant dated 04.09.2020, it is the case of prosecution that, in the video recording relating to the assault upon the complainant, presence and participation of the applicant is not shown. Other accused are named and role is described in the video. There are no criminal antecedents against the applicant. He is in custody since last two years. There is no material to show that he was part of the crime syndicate and has committed any acts as a member of gang. Thus,

rigors under Section 21(4) of the MCOC Act not be an impediment to grant bail.

7. Hence, I pass the following order :-

ORDER

- i. Criminal Bail Application No. 2965 of 2021 is allowed;
- ii. The applicant is directed to be released on bail in connection with FIR No.225 of 2020 registered with Chikhali Police Station, Pimpari Chinchwad on executing PR. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety;
- iv. The applicant shall report concerned Police Station once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- v. The applicant shall not tamper with the evidence;
- vi. Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)