

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3059 OF 2021

Aakash Annappaa Bhilugade
V/s.

...Applicant

The State of Maharashtra

...Respondent

Mr. Keadar Patil a/w Mr. G. Joshi a/w Mr. Jitesh Mundhwa a/w Ms. Sakshi Kadam, Advocate, for the Applicant.

Ms. M.M. Deshmukh, APP, for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 24.11.2022.

PC. :

1. This is an application under Section 439 of Code of Criminal Procedure for bail.

2. The applicant came to be arrested in Crime No. 357 of 2017 registered at Shivaji Nagar Police Station, Ichalkaranji, for the offence punishable under Sections 388, 307, 449, 338, 324, 323, 143, 147, 148, 149, 427, 504, 506 of the Indian Penal Code and Section 3(1)(ii), 3(2), 3(4) and 3(5) of the Maharashtra Control of Organized Crime Act (in short MCOC).

3. The learned counsel for the applicant submits that the applicant is in jail for more than five years. It is submitted that the trial is still at the stage of framing of charge and therefore, conclusion of trial in near future is remote. It is submitted that this Court and the Hon'ble Supreme Court has held that prolonged incarceration without

trial amounts to infringement of or violation of right of accused under Article 21 of the Constitution of India. It is thus submitted that the applicant therefore may be released on bail.

4. On the other hand, the learned APP for the respondent/State submits that the applicant is involved in serious crime of extortion and attempt to murder. It is submitted that applicant is member of Organized Crime Syndicate and is involved in four more crimes. It is submitted that the applicant, therefore, may not be released on bail.

5. The learned counsel for the applicant has placed on record copy of the orders passed by this Court in James Jaffrin Almeida @ Sam Vs. The State of Maharashtra dated 15/03/2022 in Criminal Bail Application No. 175 of 2022 and in Anil Patil Vs. The State of Maharashtra dated 29/07/2022 in Bail Application No. 33 of 2022. This Court in James Jaffrin has held that the restriction under Section 21(4) of the MCOC Act would not be impediment in granting bail due to prolong incarceration of accused without trial. The applicant therein was in the custody for 6½ years and there were 13 criminal cases registered against him. In Anil Patil, the applicant therein was in custody for 4 ½ years and this Court granted bail to him by observing that the minimum punishment prescribed for the offences alleged to have been committed by the applicant under the provisions of MCOC Act is five years. The possibility of conclusion of trial in near future

appears to be remote as till date not a single witness has been examined by the prosecutor.

6. In the present case, also the applicant is in jail for more than five years. The trial is still at the stage of charge. Considering the facts and circumstances, I am inclined to release the applicant on bail by imposing certain conditions. In the result, following order is passed:

ORDER

- A] The Bail Application is allowed.
- B] The applicant be released on bail in Crime No. 357 of 2017 registered at Shivaji Nagar Police Station, Ichalkaranji, for the offence punishable under Sections 388, 307, 449, 338, 324, 323, 143, 147, 148, 149, 427, 504, 506 of the Indian Penal Code and Section 3(1)(ii), 3(2), 3(4) and 3(5) of the MCOC, on furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one or two sureties in the like amount.
- C] The applicant shall not enter into the Municipal limits of Ichalkaranji, Jaysingpur, Hatkanangle, except to attend the dates in the trials in which he is accused.
- D] The applicant shall furnish the address where he is going to reside after his release and his mobile number to the concerned officer of Shivaji Nagar Police Station and shall

attend the concerned Police Station within whose jurisdiction he is going to reside, once in a month, i.e. on the first Saturday between 11.00 a.m. to 2.00 p.m., till conclusion of the trial.

[N.R.BORKAR, J.]