

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

BAIL APPLICATION NO. 3208 OF 2021

Aman Yusuf Khan

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Sudeep Pasbola i/b. Mr. Ganesh Bhujbal for the Applicant.
Ms Geeta P. Mulekar, APP for the Respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATED : 29th September, 2022

P.C.:

1. Heard.
2. The applicant is seeking regular bail in crime no. 67 of 2021 registered with Kondhwa police station for the offence punishable under sections 307, 143, 144, 147, 148, 149 of IPC, under section 37(1)(3) r/w. 135, 142 of Maharashtra Police Act, under section 3(25), 4(25) of the Arms Act, under section 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act.
3. The case of the prosecution is, the informant-Vignesh was moving with his friends when he was fired at by the assailants who later on went to Baramati. The applicant was one of the persons seen with the suspects enjoying the food and drinks, based on the CCTV footage. As such, was roped in and the provisions of MCOCA

was invoked.

4. The substantive offence resulted into registration of offence no. 67 of 2021. This Court is primarily concerned with offence under the provisions of MCOCA. As far as the aforesaid substantive offence is concerned, there is no specific role attributed to the applicant in the commission of the offence. Neither the CDR records collected about the co-accused, speaks of any call records between the applicant and other co-accused, nor his presence from the tower location could be identified. But for the substantive single offence against the applicant, in which also there is no direct evidence available on record connecting to crime in question.

5. Whether in such an eventuality i.e. based on the single offence, provisions of MCOCA can be invoked is already decided by Apex Court in the matter of ***Mohd. Iliyas Mohamad Bilal Kapadiya vs. State of Gujarat*** reported ***in 2022 LiveLaw (SC) 538.***

6. As there is hardly any evidence on record to connect the applicant, even to the substantive offence and there is hardly any material to infer that the applicant was member of the organized crime syndicate but for the CCTV footages which has no

connection with the commission of the substantive offence as it is not demonstrated that the applicant is involved in the substantive offence alleged.

7. The case for grant of bail is made out.

8. As such, it is directed that the applicant be released on bail in crime no. 67 of 2021 registered with Kondhwa police station for the offence punishable under sections 307, 143, 144, 147, 148, 149 of IPC, under section 37(1)(3) r/w. 135, 142 of Maharashtra Police Act, under section 3(25), 4(25) of the Arms Act, under section 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act upon furnishing P.R. bond in the sum of Rs.15,000/- with one or more sureties in the like amount.

9. The applicant shall attend the Investigating Officer as and when directed.

10. The applicant shall neither influence the witnesses nor tamper with the evidence in any manner.

11. The application stands disposed of.

(NITIN W. SAMBRE, J.)