

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3359 OF 2021

Avdhut S. Lugde

...Applicant

V/s.

The State of Maharashtra

...Respondent.

Mr. Rahul B. Khot a/w. Mr. Digvijay V. Yadav for the Applicant.

Mrs. Veera Shinde, APP for the Respondent/State

PSI R.D. Gacche attached to Kagal Police Station present.

CORAM : N.R. BORKAR, J.
DATE : 06.12.2022.

P.C. :

1. This is an application under Section 439 of Code of Criminal Procedure, 1973 (CrPC) for bail.
2. The applicant came to be arrested in Crime No. 256 of 2017 registered at Kagal police station, Kolhapur for the offences punishable under Sections 395, 364(A), 387, 346, 506(2), 120(B) of Indian Penal Code, 1860 (IPC), Section 3(1)(ii), 3(2), 3(4) and 3(5) 4 of the Maharashtra Control of Organized Crime Act, 1999 (MCOC Act) and Section 3(1) read with 27 of Arms Act, 1959.
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 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 abduction for ransom. It is submitted that applicant is member of Organized Crime Syndicate. It is submitted that considering the nature of offence, the applicant may not be released on bail.

5. In ***James Jaffrin Almeida @ Sam Vs. The State of Maharashtra¹***, this Court 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 Vs. The State of Maharashtra²***, 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 framing of charge. Considering the facts and circumstances, I am inclined to release the applicant on bail by imposing certain conditions. In the result,

1 Criminal Bail Application No.175 of 2022 dt. 15.3.2022

2 Criminal Bail Application NO. 33 of 2022 dt. 29.7.2022

following order is passed:

ORDER

A] Bail Application is allowed.

B] The applicant be released on bail in C.R. No. 256 of 2017 registered at Kagal police station, Kolhapur for the offences punishable under Sections 395, 364(A), 387, 346, 506(2), 120(B) of the IPC, Section 3(1)(ii), 3(2), 3(4) and 3(5) 4 of the MCOC Act and Section 3(1) read with 27 of Arms Act 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 Corporation limits of Kolhapur City, except to attend the dates before the trial Court.

D] The applicant shall furnish the address of the place where he is going to reside after his release and his mobile number to the concerned officer of Kagal police station, Kolhapur and shall attend the 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.]