

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

CRIMINAL BAIL APPLICATION NO.3707 OF 2021

Mr. Puru @ Bhuta P Rathod .. Applicant.
v/s.
Sr. Inspector of Police,
Kongaon Police Station, Bhiwandi
& Another .. Respondents.

Mr. Balwant Salunkhe, for the Applicant.
Mr. H. J. Dedhia, APP for Respondent No.2-State.

CORAM: PRAKASH D. NAIK, J.
DATED : 25th FEBRUARY, 2022.

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PER COURT:

This is second application for bail before this Court in C.R. No. I-07 of 2017 registered with Kongaon Police Station, Bhiwandi for the offences punishable under Sections 395, 365, 201, 120B and 412 of Indian Penal Code and under Sections 3 (I)(II), 32, 3(4) of Maharashtra Control of Organized Crime Act, 1999. Applicant has been arrested on 13th February, 2017.

2 The prosecution case is that the Complainant is resident of Kalyan, District Thane. He is employee of company viz. Proconnect Supply Solutions Limited as Assistant General Manager. The said company is having its godown at Gala Nos.1 to 10, Building No.E/6, behind Cipla Company, Pimpalas Road, Pimplas Gaon, Tal. Bhiwandi wherein electronic goods of various companies are stored. About 50 persons are working in the said godown. On 10.01.2017, the Complainant received telephonic call from the security guard informing him that theft has taken place in

the godown of the company. The Complainant immediately rushed to the spot. On reaching the godown, it was revealed that shutter no.11 of the godown was broken and the accused had committed theft of mobile phones, I-Pods, Chargers and USB cables valued at Rs.42,19,940/-. The Complainant thereafter lodged complaint in respect of said theft with Kongaon Police Station against unknown persons. The spot panchanama was recorded. Subsequently, the accused were arrested. Approval was sought for application of provisions of MCOC Act in accordance with Section 23(1) of the said Act. Sanction was accorded for application of provisions of MCOC Act. The applicants were remanded to custody from time to time. On completing investigation, charge sheet has been filed.

3 The previous application preferred by the Applicant was rejected by this Court vide judgment and order dated 20th October, 2018.

4 Learned Advocate for the Applicant submitted that Applicant is in custody for a period of five years. Although his application was rejected on 20th October, 2018, there is no progress in the trial. More than three years have passed after rejection of the previous application. This Court had granted bail to Laxman Subhash Chavan and Sanjaykumar @ Munna Babu Bula by order dated 26th October, 2018.

5 Thereafter, other Accused namely – Anand Bhimu Jadhav, Genusing S. Chauhan and Kiran S. Chavan preferred an application for bail before this Court. By order dated 14th February, 2019 all of them were granted bail. The co-accused Sharanappa @ Sharanu P. Sahurkar, Santosh L. Chouhan , Valu @ Valya Limbu Chavan, Biresb @ Badhya M. Rathod, Santosh @ Malya G. Chouhan and Laxman @ Lucky C. Chauhan had preferred application for bail qua Santosh @ Malya Gangaram

Chouhan, was withdrawn. The other Accused were granted bail by this Court. In the same order, it was observed that application for bail preferred by Santosh @ Malya G. Chouhan and Genusing S. Chauhan had not been considered on merits. Learned Advocate further submits that except these two accused, all are on bail. Accused Santosh Laxman Chouhan has been granted bail by this Court vide order dated 2nd February, 2021. It is stated that the confessional statement does not attribute any role to the Applicant. Gang leader Laxman @ Luackya C. Chavan had been granted bail by this order vide order dated 2nd February, 2021. The previous application of the Applicant was rejected by Court on the ground that there was identification of the accused. However, the main accused (Gang leader) is on bail and, therefore, the applicant may not be kept in custody on account of invocation of provision of MCOC Act.

6 Learned APP submitted that there is no change in circumstances to entertain this application. Previous application has been rejected by this Court on merit. Trial will commenced within short span of time. Learned APP tendered report of Investigating Officer, indicating that, steps are taken for commencement of trial. It is further submitted that, role of the accused who was granted bail can be distinguished. There is evidence against Applicant about his involvement in the crime. He was present at the scene of offence. Application may be rejected.

7 Undisputedly, Applicant is in custody for a period of 5 years. The offences were registered under Sections 395, 361, 201, 120B, 411 and 412 of the Indian Penal Code. Subsequently, provisions of MCOC Act were invoked. It is pertinent to note that, invocation of provision of MCOC Act was on account of the association of the Applicant with the

accused Laxman @ Luackya C. Chavan against whom several cases were registered. There are no criminal antecedents against the Applicant. Applicant is not involved in any other crime.

8 Learned Advocate for the Applicant had submitted that prosecution has cited about 75 witnesses. Learned APP stated that all witnesses may not be examined. The fact remains that Applicant is in custody for about 5 years.

9 In the light of the above circumstances, following order is passed:-

ORDER

- (i) Criminal Bail Application No. 3707 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. I-07 of 2017 registered with Kongaon Police Station, Bhiwandi on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 12:00 noon till the commencement of trial;
- (iv) The applicant shall not tamper with the evidence.
- (v) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court.

(PRAKASH D. NAIK,J.)