

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

CRIMINAL BAIL APPLICATION NO.3956 OF 2021

Sushant Balasaheb Desai ...Applicant
Versus
The State Of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.728 OF 2022**

Rishikesh Rajendra Phutankar ...Applicant
Versus
The State Of Maharashtra ...Respondent

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Mr. Aniket Nikam a/w Mr. Vivek Arote, Mr. Piyush Toshival, Advocates
i/b. Mr. Amit Icham, Advocate for the Applicant.

Mr. Ramnik P. Pawan, Advocate for the Applicant in BA No.728/2022.

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

CORAM : PRAKASH D. NAIK, J.

DATE : 4th OCTOBER, 2022.

PER COURT:

1. The applicants are seeking bail in Cr No.202 of 2018 registered with Juna Rajwada Police Station, Kolhapur for offence punishable under Sections 364A, 386, 120B r/w Section 34 of the Indian Penal Code. Provisions of Maharashtra Control of Organized Crime Act, 1999 (MCOCA Act) were invoked. Sections 3(1)(ii), 3(2), 3(4) and 3(5) of MCOCA Act were added. The prosecution case is that the informant was taken in Innova Car in which some persons were sitting and were

taken to Pachgaon Road. The occupants of car assaulted informant and took his mobile and other belongings and demanded an amount of Rs.25 Lakhs. The informant manages to arrange Rs.70,000/-. After the payment, he was dropped near Pachgaon. He lodged FIR.

2. It is submitted that the applicants are entitled for Bail on the ground of parity. The gang leader Yogesh Rane has been granted Bail by this Court vide order dated 30th November, 2021. The co-accused Prasad Ghadge has been granted Bail vide order dated 20th January, 2022. Accused Vishal B. Patil granted Bail vide order dated 3rd August, 2022. Ankush Aglawe granted Bail vide order dated 15th July, 2021. It is submitted that the applicant's has minor role in the crime compared to those accused who are granted Bail. Yogesh Rane is gang leader. He was referred in confessional statement of the applicant Sushant Desai. Prasad Suresh Ghadge were referred in confessional statement of the applicant-Sushant Desai. There is no Test Identification Parade qua the applicant-Sushant Desai. While allowing Bail Application No.3300 of 2021, this Court has observed that the role of applicant-Sushant Desai in the confessional statement is exculpatory. There is recovery of Rs.5000/- from the applicant-Sushant Desai which has no connection with the crime. He does not share any common antecedents with the gang leader. The said

applicant was involved with Yogesh Rane in one FIR in which he has been acquitted. There is one case pending against him. He was allegedly the driver of the Innova car. No role of assault was attributed to him. The injuries are simple in nature.

3. Learned counsel for the applicant in BA No.728 of 2022 submitted that the applicant was not involved in the crime. He was found in the car. There is no CCTV footage involving the applicant.

4. Learned APP submitted that the provisions of MCOCA Act are invoked. Role has been ascribed to applicants. There are criminal antecedents against the applicants.

5. It is pertinent to note that the gang leader Yogesh Rane is granted Bail by this Court vide order dated 30th November, 2021. While granting Bail to him, it was observed that there is no *prima facie* material to indicate that the said accused had received any money which was allegedly paid by the first informant to the accused. There is no material on record to indicate that he was associated with other co-accused in committing similar crime. There is no material on record to show that he was involved in abducting the first informant and assaulting him and demanding money or entering in a conspiracy to abduct the first informant for money. Vishal Bajirao Patil was granted Bail by order dated 3rd August, 2020.

He was in custody for a period of four years and three months. It was informed that Yogesh Rane was granted Bail by this Court vide order dated 30th November 2021 and Prasad Suresh Ghadge was granted bail vide order dated 20th January, 2022.

6. Considering the aforesaid facts and role attributed to the applicants, bail can be granted to the applicants.

7. Hence I pass following order:

:: ORDER ::

- (i) Criminal Bail Applicant No.3956 of 2021 and Criminal Bail Application No.728 of 2022 are allowed.
- (ii) The applicants are directed to be released on Bail in connection with CR No.202 of 2018 registered with Juna Rajwada Police Station, Kolhapur, on executing PR Bond in the sum of Rs.25000/- each with one or more sureties in the like amount.
- (iii) The applicants are permitted to furnish cash Bail in the sum of Rs.25000/- each for a period of eight weeks.
- (iv) The applicants shall attend concerned police station once in a month on the first Saturday of every month between 11.00 am to 1.00 pm till further orders .
- (v) The applicants shall not tamper with the evidence.
- (vi) The applicants shall attend the trial court regularly on every date of hearing of the case unless exempted by

the Court for some reasons.

(vii) Criminal Bail Applicant No.3956 of 2021 and Criminal Bail Application No.728 of 2022 are disposed of.

(PRAKASH D. NAIK, J.)