

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

BAIL APPLICATION NO. 3992 OF 2021

Amit Janki Shaha	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Priyal G. Sarda for the Applicant.
Ms. Veera Shinde, APP for the State.
Mr. Sanjay S., PSI, Rajguru Police Station.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th NOVEMBER, 2022.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in MCOC Special Case No.19/2017 pending on the file of Additional Special Judge under MCOC Act, Pune for offences punishable under sections 201, 342, 395, 397, 412 of the Indian Penal Code, under sections 4(25) of the Arms Act and sections 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crime (MCOC) Act, 1999.

2. Heard Mr. Sarda, learned counsel for the Applicant and Ms. Shinde, learned APP for the State. I have perused the records and considered the submissions advanced by learned counsel for respective

parties.

3. The Complainant was employed as a watchman in Yasho Electric Private Limited, Mauje-Ranje, Taluka Bhor, Dist. Pune. He had alleged that on 03/03/2017, at about 03:30 a.m., while he was on duty, 10 to 12 persons came to the factory premises. They were armed with wooden sticks and swords. They took him to the shed wherein the other workers were residing and assaulted him and other workers, tied their hands and legs and committed theft of copper plates, cash and mobile phones total worth Rs.23,24,184/-. Pursuant to the said FIR, crime was registered against unknown persons.

4. In the course of investigation, the Applicant came to be arrested on 13/03/2017. Test Identification Parade was held in August, 2017. It is stated that the Complainant had identified the Applicant in the said Test Identification Parade. It is pertinent to note that in the supplementary statement, the Complainant has stated that the said unknown persons had covered their faces with kerchiefs which fact prima facie indicate that the Complainant was unable to see their faces. Moreover, the Identification Parade has been held after considerable delay. Apart from the Test Identification Parade, there is no other incriminating material against this Applicant. Hence, prima facie, bar

under section 21(4) would not be attracted.

5. It is stated that the co-accused – Gopal Rajput has been granted bail by this Court (Coram : V. G. Bisht, J.). on 06/12/2021. Since the Applicant is similarly placed, he is entitled for bail on the ground of parity. The records indicate that while allowing withdrawal of Bail Application No.36/2021 filed by the co-accused Kapildeo Dube, this Court vide order dated 04/08/2021, had directed the Special Court to frame charge within a period of four months from the date of the order. It is stated that till date, charge is not framed. The Applicant is in custody since 2017 without any progress in the trial. Suffice it to say indefinite incarceration without reasonable grounds violates right to personal liberty and right to speedy trial.

6. Considering the nature of the accusations and the material in support thereof and the delay in trial would justify grant of bail. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant – Amit Janki Shaha who is facing trial in MCOC Special Case No.19/2017 pending on the file of Additional Special Judge under MCOC Act, Pune, is ordered

to be released on bail on furnishing PR. bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount ;

- (ii) The Applicant shall report to Rajgad Police Station, Dist. Pune on 1st Monday of every month between 11.00 a.m. to 02.00 p.m. until further orders ;
- (iii) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

7. Bail Application stands disposed of in above terms.

PREETI
H JAYANI

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(SMT. ANUJA PRABHUDESSAI, J.)