IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4347 OF 2021

Japan Singh Kartar Singh Tak ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Subhash Jha, Counsel a/w. Siddharth Jha, Dwivendra Dubey, Alka Pandey and Tushar Bansode for the Applicant.
Mr. A.A.Palkar, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : 30th NOVEMBER, 2022.

P.C.

1. This is an application for bail filed under Section 439 Cr.P.C. by the aforesaid applicant, who is facing trial in MCOC Case No. 514 of 2021 pending on the file of the learned Addl. Sessions Judge, Pune for the offences under Section 143, 148, 307, 387, 341, 504 r/w. 149 of the Indian Penal Code, and Section 4 r/w. 25 of the Arms Act and Section 3(1)(ii) and 3(4) of the Maharashtra Control of Organized Crimes Act, 1999 and Section 37(1)(3) r/w. 135 of the Maharashtra Police Act.

2. Heard Mr. Jha, learned Counsel for the applicant and Mr.

PRASANNA P SALGAONKAR
Digitally signed by PRASANNA P SALGAONKAR
Date: 2022.12.01 18:02:44 +0530

Palkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Ravi Dhotre. He has alleged that on 14.04.2021 at about 6.45 p.m. while he and his brother Ashok were in the shop, the co-accused Avtarsing and Tapansign came to the shop and threatened him to vacate the premises. When he refused, they abused him. He has stated that in the meantime, the applicant and his two other brothers Souransing and Omkarsing also came to the place of the incident and they started assaulting him with kicks and blows. The Complainant has alleged that the co-accused Avtarsing and Tufansing removed swords which were concealed in their shirts and inflicted injuries on his head. It is stated that he was treated at Sasoon Hospital at Hadapsar, Pune and the wound was sutured with 25 stitches. Crime No. 301 of 2021 came to be registered pursuant to the FIR lodged by the complainant Ravi Dhotre. Subsequently, the provisions of MCOC Act came to be invoked.

4. The records prima facie reveal that the provisions of MCOC

have been invoked solely on the ground that three crimes were registered against Omkar Singh and two crimes were registered against Swarna Singh. Registration of crime against the co-accused would at the most show that they had criminal antecedents. Suffice it to say that unless essential requisite of the definition of 'organized crime' are spelt out, criminal antecedents would not lead to an inference that they were members of an organized crime syndicate. It is pertinent to note that, apart from the present crime, the applicant is not involved in any other case. Statements referred to by the learned APP were recorded on 24.5.2021. Prior to recording of these statements, there was no material to show that the co-accused were in fact members of organized crime syndicate or gang.

5. Considering the above circumstances, prima facie there are no reasonable grounds for believing that the applicant is a member of organized crime syndicate or that he has committed any offence punishable under the provisions of MCOC Act. Hence, the bar under section 21(4) would not be applicable. Considering the said fact, and also considering the role attributed to the applicant, in my considered view, the applicant is entitled for bail. Moreover, the

applicant is in custody since 14.04.2021. Considering the huge pendency, the trial is not likely to commence or conclude in immediate future.

6. Considering all the above facts and circumstances, the applicant is ordered to be released on bail on the following terms and conditions:-

(i) The applicant who is facing trial in MCOC Case No. 514 of 2021 pending on the file of the learned Addl. Sessions Judge, Pune is ordered to be released on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount;

(ii) The Applicant be released on cash bail in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) for a period of three weeks;

iii) The Applicant shall within the said period of three weeks furnish P.R.Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount, to the satisfaction of the Trial Court;

(ii) The Applicant shall report to the P.I., Hadapsar Police Station on every 1st Monday of the month between 11.00 a.m. to 02.00 p.m. till framing of the charge;

(iii) The applicant shall not indulge in any criminal activities, or tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall keep the Trial Court/ Investigating Officer 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.

. Bail application stands disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)