

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

CRIMINAL BAIL APPLICATION NO. 4324 OF 2021

Dilip @ Munnya Vishnu Akhade	...Applicant
Versus	
The State Of Maharashtra	...Respondent

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Mr. Sachin H. Deokar a/w Mr. Vignesh Ashokan, Advocate for the Applicant.

Mr. A. A. Palkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 18th OCTOBER, 2022

PER COURT:

1. The applicant is arrested on 28.01.2021 in connection with C. R. No. 19 of 2021 registered with Warje Malwadi Police Station, Pune City on 17.01.2021 for offence punishable under Sections 397, 452, 352, 323, 504, 506 of the Indian Penal Code and Section 7 of Criminal Law Amendment Act, Sections 4 and 25 of the Arms Act, Sections 37(1)(3) and 135 of the Maharashtra Police Act.

2. The complainant has alleged that Sonya Akhade, Munna Akhade (applicant) , Suraj Dahire, Kailas @ Balya Khetawat entered into his house. Sony pointed out sickle at

the complainant and demanded money. Suraj Dahire checked pocket of the complainant and Kailas Khetawat threatened the complainant with sickle. Sonya Akhade assaulted the complainant on head. Suraj Dahire took money from the pocket. After the incident, accused threatened the neighbors and left the place.

3. Investigation proceeded. Statements of witnesses were recorded. Statements of four witnesses were recorded in-camera. Approval was sought for applying provisions of MCOC Act. Sections 3(1)(ii), 3(2), 3(4) of MCOC Act were invoked. On completing investigation, charge-sheet is filed.

4. Learned advocate for the applicant submitted that the applicant was not armed with any weapon. No overt act is attributed to the applicant. He was merely present at the place of incident. There are no other cases is registered against the applicant. He is not involved any criminal activities with the gang leader. He is being implicated in this case since his brother is gang leader. There is no evidence to invoke provisions of MCOC Act against the applicant. He relied upon the decision of the Apex Court in the case of **Mohamad Iliyas Mohammad Bilal Kapadiya**

Vs. The State of Gujarat delivered in Special Leave to Appeal (Cri.) No. 1815 of 2022 dated 30.05.2021.

5. Learned APP submitted that the applicant has participated in the crime. He was present at the scene of offence. The gang leader has several criminal antecedents. The complainant was assaulted. Amount was taken away from his possession. The applicant is associated with the crime syndicate. Provisions of MCOC Act is attracted against the applicant. The prosecution has filed affidavit opposing the application for bail.

6. The applicant is in custody for a period of one year and 10 months. There are no other criminal antecedents against the applicant. In the present case, no overt act is attributed to the applicant. He was neither armed with weapon nor issued any threat or participated in the assault. The prosecution is relying upon the statement of four persons recorded in-camera. However there is no cogent evidence to establish that the applicant has acted as member of crime syndicate and participated in the offences as a member of crime syndicate along with gang leader or any member of the gang. Restrictions under Section 21(4)

of the MCOC Act would not dis-entitle the applicant for bail.

7. Considering these circumstances, case for grant of bail is made out.

ORDER

- (i) Criminal Bail Application No.4324 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C. R. No. 19 of 2021 registered with Warje Malwadi Police Station, Pune City on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- (iv) The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (v) The applicant shall not tamper with the evidence.
- (vi) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court for some reason.
- (vii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)