

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.571 OF 2023

SHAIKH AZAR @ CHOTA SHAIKH AZAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shailendra S. Gangakhedkar
APP for Respondent : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 20-04-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P for the respondent/State.
2. The applicant is seeking bail in C.R.No.379 of 2021 registered with Shivaji Nagar Police Station, District Nanded, for the offence punishable under Section 395 of the Indian Penal Code and Section 3/25 of the Arms Act and Section 3/4 of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred as MCOC Act).
3. It is a prosecution case that four persons entered in the hotel and threatened the Manager sitting on the counter. They snatched money and mobile handset and fled away. The report was lodged against unknown persons. The accused were seen in the CCTV footage in another hotel at some distance. Based upon that the

prosecution case is that after dacoity in the said hotel in series, the same persons committed the present crime.

4. The learned counsel for the applicant would submit that nothing has been recovered from the applicant. Two incidents have no concerned at all with each other. The CCTV footage of Durga hotel was taken. The applicant was not identified. Nothing has been recovered from him. He was not the member of organised crime. There is nothing against the applicant. He is languishing in jail since 17.11.2021. Hence, he may be granted bail.

4. The learned A.P.P. opposed the application contending that statement under Section 18 of the MCOC Act is admissible. The entire formalities as prescribed under Section 18 MCOC Act have been complied with. There were antecedents to the discredit of the applicant. The offence is grave. Hence, applicant does not deserve bail.

5. Perused the chargesheet.

6. It is not in dispute that the applicant was not identified. The incident at hand and in Durga Hotel are distinct and independent. After his arrest, nothing incriminating has been recovered from him. Considering the role attributed to the applicant and the time to complete the trial, he deserves bail. Hence, the following

order:-

- i) Application is allowed.
- ii) Applicant Shaikh Azar @ Chota Shaikh Azar be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.No.379 of 2021 registered with Shivaji Nagar Police Station, District Nanded, for the offence punishable under Section 395 of the Indian Penal Code and Section 3/25 of the Arms Act and Section 3/4 of the Maharashtra Control of Organised Crime Act, 1999, on the conditions that;
 - (a) He shall attend the police station on every first and last Friday of the month between 7.00 p.m. to 9.00 p.m. till conclusion of the trial.
 - (b) He shall not leave his village/town without intimation to concerned police station.
 - (c) He shall attend the trial on each and every effective date.
 - (d) He shall not involve in the similar crime.

**(S. G. MEHARE)
JUDGE**

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