

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.595 OF 2023

KARANJITSINGH RAGHBIRSINGH SHAHU
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocates for Applicant : Mr. Rajendraa Deshmukh, Senior
Advocate along with Mr. Govind Kulkarni and Vishal Chavan,
Advocates instructed by Mr. D. R. Deshmukh
APP for Respondents : Mr. S. P. Sonpawale
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CORAM : S. G. MEHARE, J.

DATE : 27-04-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondents.
2. The applicant is seeking bail in C.R.No.0119 of 2022 registered with Vimantal Police Station, Nanded, District Nanded, for the offences punishable under Sections 302, 307, 120B, 201 read with Section 34 of the Indian Penal Code, Sections 3/25 of the Arms Act, 1959, Section 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (for short, "MCOC Act") and Sections 13, 16, 17, 18, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967.

3. It is a case of murder of a builder of Nanded for ransom. The prosecution has a case that one international criminal, namely, Rinda @ Harwindarsingh Charansingh Sandhu, who is now in Pakistan, is the main accused, who killed the builder through his associates. As far as allegation against the applicant is concerned, he was allegedly appointed to look after one of the co-accused, namely, Sunil by other co-accused Hardipsingh @ Hardi Sapure and one Sunny Major. Further, it has been alleged that he provided a mobile handset and a *walkie-talkie* to accused Sunil, who was staying in Joshi Lodge. It has also been alleged against the applicant that there were three crimes registered against him. Hence, MCOC Act has been applied against him. It is transpired that the applicant was in contact with all other co-accused. It is also transpired that the applicant used to carry money paid by one of the co-accused for paying to the persons. On these allegations, the applicant has been arraigned as an accused and arrested.

4. The learned Senior Counsel for the applicant has vehemently argued that the prosecution did not supply the correct information to the learned Additional Sessions Judge, who rejected bail application about the crimes registered against the applicant. The alleged crimes which were shown registered against the applicant were against the other persons. There were no crimes registered against him. The applicant is an international hockey player and a son of Police Officer posted in the same district. He was never

appointed at Joshi lodge where play cards were played. He was a clerk in Gurudwara. However, one of the persons working in Joshi lodge on play cards table was knowing him. Only on the basis of acquaintance with the said person, the applicant cannot be roped as an accused. The prosecution has no evidence that the mobile handset of the applicant was ever used by accused Sunil during hatching a plot to commit the murder of builder for ransom. The CDR allegedly collected falsify the allegations levelled against him. He is a man of clean past but seems to have been made a scapegoat. The applicant has roots in Nanded. He can never abscond. Hence, he may be granted bail.

5. Opposing the application, the learned A.P.P. would refer to the statement of the one of the co-accused under Section 18 of the MCOC Act. He argued that the appointment of the applicant on the say of co-accused Hardi and Sunny Major, cannot be disbelieved. The statement under Section 18 of the MCOC Act can be received in evidence. It was a voluntary statement of the co-accused. From the statement it appears that the applicant was one of the conspirators and supporters of the main accused, who was involved in the organized crime. Rinda is an international criminal and used to kill the persons for ransom. The deceased was one of his victims. The applicant was in contacts with one co-accused Harish who was the main person looking after the play cards club at Joshi lodge. He has vehemently argued that a red

corner notice has been issued against the international criminal Rinda who is now in Pakistan. The offence is serious. *Prima facie* evidence is available against the applicant. Hence, he may not be granted bail.

6. In reply, the learned senior counsel for the applicant would submit that the statement of co-accused Harish is not strict compliance with Section 18 of the MCOC Act. It does not bear the place and time of recording voluntary statement of co-accused Harish. Therefore, it is not admissible as contemplated under Section 18 of the MCOC Act.

7. The learned A.P.P. has gone through the papers and took instructions from the Investigating Officer to verify whether three crimes as mentioned in the order of the Sessions Court were registered against the applicant. After verifying the fact, he states that those crimes were not against the applicant. However, he failed to point out that any crime registered against the applicant except the present crime. In view of the facts, it is doubtful whether the applicant can be arraigned as an accused under MCOC Act.

8. As far as the allegations as discussed above against the applicant are concerned, it appears that the applicant was knowing co-accused Harish, who was looking after the play cards club run in Joshi lodge. The accused did not deny that he used to

talk to accused Harish on phone. One of the statements of the witnesses which the learned A.P.P. read before the Court, (name cannot be disclosed as it was kept secret as per Section 19 of the MCOC Act) stated that the main accused appointing the applicant as a new person has added him in the conspiracy to commit the murder of the builder. If that statement is considered *prima facie* it seems that the applicant had no knowledge or never accepted or admitted, he was a member of the conspiracy.

9. As far as the phone calls are concerned, the prosecution has no material to show that his phone was used by any of the other co-accused to contact with the main accused or other co-accused. Whatever calls he made to co-accused Harish appears routine calls as they were working together at Joshi lodge. The record reveals that except the statement of co-accused Harish that too about appointment of applicant at Joshi lodge, there is nothing to connect the applicant with the present crime. The Court is not oblivious that the murder of the builder was really a matter of serious concern and that created a terror in Nanded town, but the Court can also not brush aside the material collected by the Investigating Officer connecting the applicant with the crime. As observed above, the Court is satisfied that the prosecution has no satisfactory evidence connecting the accused with the present crime and he was a member of the conspiracy. Considering his past, it would be unjustifiable to keep him behind bar. Hence, he

may be granted bail on certain conditions. Hence, the order:-

- i) Bail application is allowed.
- ii) Applicant Karanjitsingh Raghbirsingh Shahu be released on bail, on furnishing PB and SB of Rs.1,00,000/-, with one or two solvent sureties of Rs.50,000/- each of the like amount, in aforesaid crime, on the conditions that,
 - (a) He shall not use any mobile handset either in his name or in the name of his close relatives till conclusion of trial.
 - (b) He shall not contact any co-accused till conclusion of the trial.
 - (c) Till the trial is concluded, he shall not leave Nanded town without intimation to the concerned Investigating Officer or P.S.O.
 - (d) He shall not tamper with the prosecution witnesses.
- iii) Needless to state that the observations in this order are *prima facie* restricted to bail. The trial Court should not get influenced of the observation during trial.

(S. G. MEHARE)
JUDGE

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