

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.619 OF 2023

**JAGJEETSINGH @ JAGGI DILBAGSINGH SANDHU
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. Granthi Manpreet Ajeet Singh
APP for Respondent/State : Mr. Y.G. Gujarati
...

CORAM : S.G. MEHARE, J.

DATED : JUNE 14, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is seeking bail in Crime No.273 of 2019 registered with Itwara Police Station, District Nanded which was initially registered for the offence punishable under Section 307, 506, 120-B, 109 r/w 34 of Indian Penal Code and Section 4/25 and 3/25 of Indian Arms Act and subsequently added the provisions of Maharashtra Control of Organised Crime Act (for short 'MCOCA Act').
3. The FIR was lodged on 10.12.2019 alleging that two unknown persons entered the office of the complainant. One of them opened fire and one was holding the dagger. He asked him why he did not pick up the call of 'bhai'. Thereafter, they told him that at 02.00 am 'bhai' will call him, he should pick up the call and then they

left. The complainant specifically mentioned in the complaint that he may identify those persons if shown to him. The applicant was arrested in the year 2019 and thereafter, the Court had granted him bail. However, after two years in one fine morning on getting permission from the concerned Court, the bail was cancelled and the applicant was arrested. Since then, he is languishing in jail.

4. The prosecution has a case that the applicant is involved in various crimes and he is the member of organized crime syndicate. The present crime was committed for ransom. In the investigation, it has been transpired that the assault was made for the ransom. Since the applicant is involved in the organized crimes and has a bad past, he is not entitled to bail as provided under Section 21(4)(b) of MCOCA Act.

5. Learned APP has vehemently opposed the application and would argue that there is sufficient material to establish the nexus between the past crime and the present crime. Considering the continuous involvement of the applicant in organized crime, it would be unsafe to release him on bail.

6. Learned counsel for the applicant has vehemently argued that in fact, when the earlier bail application was cancelled, no notice of hearing was granted to the applicant. However, he did not impugned the said illegality committed. He would argue that the FIR is a best piece of evidence that gives an idea to the investigating

officer to proceed with the investigation. Admittedly, there were antecedents to the discredit of the applicant, but the police kept silent for two years and thereafter, suddenly they obtained the order from the Court cancelling the bail application and the applicant was taken into custody. There is no nexus between the past crime and present crime. The applicant has been erroneously and illegally arraigned as an accused in the case of MCOCA Act. The complainant never complained that he was threatened for the ransom. There was no test identification parade. Therefore, the involvement of the applicant in the present crime is seriously doubtful. He would submit that the applicant is languishing in jail since last one year and there is no progress in the trial. There are no witnesses to support the so-called material collected by the investigating officer to attract the provisions of MCOCA Act.

7. To bolster his arguments, he relied on the case of Hiru @ Hiranman Jagdish Gangwani Vs. The State of Maharashtra, 2022 ALL MR (Cri) 1444, wherein the Bombay High Court granted bail to the applicant as the nexus between the past crime and present crime was not established as well as there was no sufficient material to show that applicant was the member of organized crime syndicate. He further relied on the case of Sagar Laxman Sonawane Vs. The State of Maharashtra, 2021 ALL MR (Cri) 1087. In this case, the Court

granted bail to the accused as there was no other material except the statement of the co-accused.

8. It is really surprising that the bail which was granted to the applicant was cancelled in one fine morning without giving an opportunity of being heard to the accused. It is also surprising that the sections of MCOCA Act has been applied after two years of the release of the applicant on bail. Learned APP has pointed out that there are six crimes to the discredit of the applicant. He would also refer to the supplementary statement of the first informant dated 17.06.2022 i.e. after second time arrest of the applicant. In that statement, the complainant was asked to make a call on one unknown mobile phone number in the presence of one Firoz Khan Pathan, S.I. and their communication was recorded and during that communication, the person who had called him demanded Rs.80 lacs and this call was made on 10.12.2019. If it was so, whether said admission of the crime without the knowledge of the so-called accused is admissible is a question of law that is to be determined during the course of trial. That apart, this call was made on 10.12.2019 i.e. the next day of the alleged incident. Learned counsel for the applicant would submit that the telephonic communication was never the part of the record and this was brought first time after applying MCOCA Act. If this record was there, the police had sufficient material to apply the MCOCA Act forthwith. But the reason

best known to the investigating officer why they waited for two years to apply the MCOCA Act, which is a serious offence. Reading the material as a whole, it seems that when the accused were produced for first time in the Court, the prosecution has no material to establish the nexus between the past crime and present crime. The prosecution also has no sufficient material to establish the involvement of the applicant as a member of organized crime syndicate. Considering the facts of the case and inordinate delay in recording the supplementary statement about the demand of ransom from unknown number, it is difficult at this juncture to believe that there was a nexus between past crime and present crime. That apart, there is no progress in the trial. Under these circumstances, the material illegalities in the investigation and inordinate delay in applying the provisions of MCOCA Act, this Court is of the view that this is a fit case to grant bail on certain stringent conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Jagjeetsingh @ Jaggi Dilbagsingh Sandhu, be released on bail on executing P.B. and S.B. of Rs.1,00,000/- (Rupees one lac) with one or two solvent sureties of Rs.50,000/- each in connection with the above crime, on the conditions that he shall not tamper with the prosecution witnesses.

(6)

- (iii) The applicant shall attend the concerned police station on every Monday, Thursday and Saturday of every month between 05.00 pm to 07.00 pm till conclusion of the trial.
- (iv) The applicant shall give his mobile phone number to PSO which he is using with an undertaking that he shall not change his mobile number.
- (v) The applicant shall not leave Nanded without the permission of the concerned PSO, till conclusion of the trial.
- (vi) The applicant shall surrender his passport to the police, if any.
- (vii) The applicant shall not contact the first informant or his family members in any mode or manner, till conclusion of the trial.
- (viii) The applicant shall not be in the company of other co-accused till conclusion of the trial.

(S.G. MEHARE, J.)