

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.803 OF 2023

ANIL SURESH PAWAR @ ANIL PUNJABI
VERSUS
THE STATE OF MAHARASHTRA

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

CORAM : S. G. MEHARE, J.

DATE : 12-07-2023

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. The learned counsel for the applicant has argued that similaraly situated co-accused have been granted bail. No incriminating evidence is collected against the applicant to show *prima facie* nexus with the present crime. The earlier offences

have no concern with the offence registered under the MCOC Act. The cases registered against the applicant are not sufficient to brand the applicant as a leader of organized crime syndicate as provided under the MCOC Act. He would further argue that the applicant was arraigned as accused on the statement of the co-accused, which is not admissible in evidence. He also raised a serious objection that in absence of any material showing *prima facie* involvement of the accused in the offence under the MCOC Act, the statement of the accused under Section 18 of the MCOC Act is not admissible in the evidence. He also added that mostly such statements are recorded by the police keeping the accused under threat. The applicant has not given any statement, as such. Since the nexus of the applicant in the alleged crime is missing, there would be no bar as provided in Section 21(4) of the MCOC Act, granting bail to the applicant.

4. Per contra, the learned A.P.P. opposing the application. He would argue that the applicant is a leader of the crime syndicate. There are number of crimes to the discredit of the applicant. His statement under Section 18 of the MCOC Act is admissible in evidence. It was recorded by following due procedure. Considering his past, the investigation was made and he has been correctly arraigned as accused. The offence is serious. Hence, he may not be granted bail.

5. Perused the chargesheet.

6. Nothing has been recovered from the applicant. The arguable question has been raised by the learned counsel for the applicant that unless the prosecution has some material showing the nexus of the applicant with the crime, the statement under Section 18 of the MCOC Act, is not admissible. Same way, he has raised the arguable point that without having sufficient material to show the involvement of the accused in the crime, he cannot be arraigned as an accused under the MCOC Act. The Investigation Officer shall collect the evidence proving the nexus of the accused with the alleged crime. There is nothing except the crimes registered against the accused to establish the nexus of the applicant with the present crime. Taking the facts and circumstances into account and in the absence of prima facie evidence against the applicant, the Court is of the view that the applicant deserves bail. Hence, the order:-

- i) Application is allowed.
- ii) Applicant Anil s/o. Suresh Pawar @ Anil Punjabi be released on bail, on furnishing PB and SB of Rs.2,00,000/-, with two solvent sureties of the amount of Rs.1,00,000/- each, 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 Shivaji Nagar Police Station, Nanded, on every first and last Thursday of the month between 7.00 p.m. to 9.00 p.m. till conclusion of the trial.
- (b) He shall not leave his place of residence without intimation to the concerned police station.
- (c) He shall attend the trial on each and every effective date.

(S. G. MEHARE)
JUDGE

rrd