

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

**BAIL APPLICATION NO.1183 OF 2023
WITH
CRIMINAL APPLICATION NO.2696 OF 2023**

Narayan Tukaram Irabatanwad
Age: 48 years, Occu: Business,
R/o Shirur Tajband, Tq. Ahmedpur,
Dist. Latur

... Applicant

Versus

The State of Maharashtra
Through Police Inspector,
Chakur Police Station,
Tq. Chakur, Dist. Latur

... Respondent

...
Mr. P. P. More, Advocate for the Applicant
Mr. K. S. Patil, APP for Respondent/State
...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 28.08.2023

PER COURT:-

1. By this application, the applicant seeks regular bail in Crime No.97/2022 registered with Chakur Police Station, Taluka Chakur, District Latur for the offences punishable under Sections 302, 201, 120-B, 212, 216 read with 34 of the Indian Penal Code and Sections 3(1)(i), 3(2), 3(3), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 [hereinafter of referred to as 'the MCOC Act' for short].

2. The investigation was set in motion on the information given by P.S.I. - Tukaram Phad, Chakur Police Station dated 20/03/2022, alleging that during the investigation, it was transpired that, deceased - Sachin @ Lalu Shivsamb Davangave has been killed due to land dispute with accused no.1 - applicant. The accused no.1 conspired the murder of deceased - Sachin in connivance with other accused. The accused no.2 - Rajkumar and accused no.3 - Sudhir assaulted the deceased using knife, sickle and stone. The accused no.1 and other accused were arrested. The accused no.1 had absconded from the police custody on 24/03/2022. A separate offence punishable under Section 224 of IPC is registered against him. On 01/06/2022, the applicant - accused had been to Latur to meet his wife. P.I Mohite chased him. However, accused no.1 assaulted him. The P.I. was required to open the fire, in which, the accused was injured and after his discharge from the hospital, he was arrested. The case of the prosecution is that the accused no.1 is running organized crime syndicate in Latur and Nanded Districts. During investigation in the matter, confessional statement of co-accused - Sudhir Rapatwar and Ramesh Bhalerao have been recorded under Section 18 of the MCOC Act. They have confessed about the commission of the murder at the instance of applicant - accused no.1. At the instance of other accused persons, incriminating material has been seized. On completion of investigation, charge-sheet is also filed. The prayer for grant of regular bail made on behalf of applicant - accused before the Sessions Judge has been

rejected vide order dated 26/04/2023.

3. Mr. P. P. More, learned Advocate appearing for the applicant would vehemently submit that the applicant has been falsely implicated in the present crime only on the basis of suspicion. According to him, there is no direct or indirect evidence regarding the alleged conspiracy. He would submit that the provisions of MCOC Act has no application in the present case so also the alleged confessional statements of co-accused recorded under Section 18 of MCOC Act would not be admissible in the evidence. In support of his contentions, he relies upon the judgments of this Court in the case of **Aakif Ateeque Nachan Vs. The State of Maharashtra** reported in **2014 ALL MR (Cri) 2189**, **Sk. Mehmood Sk. Mehboob Vs. State of Maharashtra** reported in **2015 ALL MR (Cri) 3124** and **Bhupendra @ Golu s/o Suryakant Borkar Vs. State of Maharashtra** reported in **2017 ALL MR (Cri) 1561**. He would further submit that since P.I. Mohite has animus against the applicant, the false offences have been registered against him. Mr. More, learned APP would further point out that the various offences which are registered against the applicant does not constitute the organized crime syndicate. He would further submit that the applicant is suffering from various ailments and requires medical supervision. The co-accused persons, namely, Dhanaji Tukaram Irbatanwad and Purshottam Tukaram Surnar have been already enlarged on bail against whom similar role of conspiracy has been attributed.

4. Mr. Patil, learned APP opposes the application. He would submit that the present offence is grave. On account of land dispute, young man is killed under conspiracy hatched by the applicant. Under the pretext of providing Rs.1,00,000/- and land for opening Dhaba, the young accused persons were used to commit heinous offence. There are criminal antecedents against the applicant - accused, who is running a syndicate. Release of the applicant is likely to hamper the smooth trial. Further considering the conduct of the accused - applicant, it would be difficult to secure his presence in the trial. The possibility of absconding cannot be ruled out.
5. Having considered the submissions advanced, apparently, the applicant is a main conspirator of the alleged offence. The evidence on record shows the transaction of the amount from the account of the applicant to the account of assailants. The motive for commission of offence i.e. land dispute is also coming on record through statement of the witnesses. The confessional statement of the assailants would show that they committed murder of the deceased on the contract given by the applicant. The conduct of the accused - applicant that he ran away from the police custody during the course of investigation and also his conduct of attacking the police officer is brought on record. A CCTV footage shows that the deceased was last seen in the company of accused nos.2 and 3 and JCL, who were hired for commission of the murder. There are serious criminal antecedents against the applicant. His release would certainly hamper the smooth

trial. The apprehension raised by the prosecution that he is likely to abscond or tamper the prosecution evidence, is well founded. In that view of the matter, there is no reason to exercise discretion in favour of the applicant. So far as the medical ground raised on behalf of the applicant - accused that may be dealt with independently, if the separate application is filed along with relevant record to substantiate requirement of medical treatment beyond the jail. With the aforesaid liberty, bail application is dismissed.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer