IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1879 OF 2022

GURULALSINGH KULWANTSINGH SANDHU
VERSUS
THE STATE OF MAHARASHTRA

Mr. M. K. Bhosale, Advocate for applicant;
Mr. S. P. Sonpawale, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 9th JANUARY, 2023

P.C.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.

2. Initially, the crime was registered under Section 307 of the Indian Penal Code. The applicant had applied for bail before the learned Additional Sessions Judge, Nanded. Considering the material before the Court, the applicant was released on bail on 11.08.2020. Thereafter, in one fine morning, the permission was sought to arrest the accused for the offence punishable under the Maharashtra Control of Organized Crimes Act (for short "MCOC Act")as the sections under the said Act were added in the same crime. Since then the applicant is languishing in jail.

3. Learned counsel for the applicant has vehemently argued that the prosecution has nothing against the applicant, except the

statement of the co-accused under Section 18 of the MCOC Act. The police custody remand was sought by the prosecution to make the necessary investigation, whether the applicant had any transaction with the other co-accused. However, nothing has been transpired. No test identification parade was held. The primary report was lodged against unknown persons. The applicant has no concern at all with the other co-accused. Therefore, he may be released on bail. He would rely on the case of **Sagar Laxman Sonawane vs. The State of Maharashtra, 2021 ALL MR (Criminal) 1087**.

4. Learned A.P.P. read over the statement of the co-accused recorded under Section 18 of the MCOC Act. He would vehemently argue that the co-accused has named the present applicant who assisted them to complete the crime. The offence is serious. Hence, the applicant may not be granted bail.

5. The record does not reveal recovery of any arm or material including the documents or papers from the possession of the applicant. Therefore, *prima facie* it cannot be presumed that the accused has committed the offence as alleged. The statement of the co-accused does not disclose any direct link of the applicant with the alleged incident.

6. The applicant has been arrested for first time in the present crime. He has no other crimes registered at his discredit. The

prosecution has to establish prima facie some nexus between the past crimes at the discredit of the applicant/accused. However, there is no record to nexus with the commission of crime that may attract the provisions of MCOC Act. For want of satisfactory material against the applicant and any nexus with the other co-accused, who are allegedly hardened criminals, it would be inappropriate to keep him behind bar. He deserves bail on certain conditions. Hence, the following order :-

i) The application is allowed.

ii) Applicant Gurulalsingh Kulwantsingh Sandhu be released on bail, on furnishing PB and SB of Rs.1,00,000/-, with two solvent sureties of Rs.50,000/- each, in C.R.No.0273 of 2019 registered with Itwara Police Station, Nanded, District Nanded, for the offences punishable under Sections 307, 506, 120B, 109 read with Section 34 of the Indian Penal Code and Sections 4/25, 3/25 of the Arms Act and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crimes Act, on the conditions that

   (a) The applicant shall not contact any way with the other co-accused,
   (b) The applicant shall report to the concerned police station on every first Thursday of the month, between 11.00 a.m. and 1.00 p.m. and
   (c) The applicant shall not involve in the similar offence.

(S. G. MEHARE, J.)

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