

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

33 BAIL APPLICATION NO.2072 OF 2022

DHANAJI S/O. TUKARAM IRBATANWAD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. More P. P.
APP for Respondent-State : Mr. S. P. Sonpawale.

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CORAM : S. G. MEHARE, J.
DATE : 13.03.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant is the brother of the main accused against whom various crimes have been registered. He has been arraigned as an accused in the present case on the sole statement of Hotel Manager that he saw the applicant sitting with other co-accused in the bar which was owned by the main accused No.1. His statement was recorded three weeks after the date of the incident. His statement pertains to the conspiracy. He states that the applicant look after the financial transactions of the main accused.

3. The learned counsel for the applicant would argue that the applicant and his wife were the school teacher. Not a single crime was registered against them. The alleged evidence of conspiracy is also not cogent and reliable. There is no evidence against the applicant that he was a member of the syndicate which was committing crime to make the money. Only to make the offence serious, he has been arrested. Prosecution has no evidence to show that the applicant was dealing with the financial transactions of the main accused.

4. Learned APP would argue that there were bank entries of the money transactions between the applicant and the main accused. The applicant was involved in illegal money lending business and the *Ganja*. The statement of the witnesses have been recorded under Section 18 of the M.C.O.C. Act. The offence is serious. Hence, he may not be granted bail.

5. Perused the charge sheet. Barely a statement of the Manager of the Hotel run by accused No.1 as regards the conspiracy is against the applicant. The prosecution could not point out that the applicant and main accused have money transaction. There are no antecedents to his discredit. For the first time, the applicant is allegedly a member of the syndicate whose head is accused No.1. In the absence of any material

against him, the restrictions demonstrated in Section 20 of the M.C.O.C. Act granting bail do not come in his way for bail. Considering the facts and the provisions of Law, the Court is of the view that the applicant deserves bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **DHANAJI S/O. TUKARAM IRBATANWAD** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.97 of 2022, registered by Police Station Chakur, District Latur, for the offences punishable under Sections 302, 120-B, 201, 212, 216 read with Section 34 of the IPC and Section 3(1)(i), 3(2), 3(3) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999, on the following conditions :
 - (a) The applicant shall not tamper with the prosecution witnesses.
 - (b) He shall not contact other co-accused and the witnesses till the conclusion of the trial.

- (c) He shall attend the trial on each and every effective date.

(S. G. MEHARE, J.)

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vmk/-