

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.3255 OF 2021

Shatrugna Anant Kale

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Satyavrat Joshi i/b. Mr. Jaydeep Mane for the Applicant.

Mr. R.M. Pethe, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 2nd AUGUST, 2023.

P.C.:-

1. The Applicant, who is facing trial in M.C.O.C. Special Case No.4 of 2020 pending on the file of learned Additional Sessions Judge, Solapur, seeks enlargement on bail. The said case arises from C.R. No.272 of 2019 registered with Pandharpur Taluka Police Station, District-Solapur, for the offences punishable under Sections 109, 342, 395 and 397 of the IPC and Sections 3(1)(ii), 3(2), 3(4), 3(5) of the Maharashtra Control of Organized Crime Act, 1999.

2. In the course of the investigation, statements of the witnesses were recorded and it transpired that the Applicant herein, who was a gang leader of an organized crime syndicate, had committed offences for

gaining pecuniary benefits for the crime syndicate. It was also revealed that the Applicant was involved in several such crimes. Hence, after obtaining the approval, charge-sheet came to be filed and provisions of the MCOC Act came to be added.

3. The bail application filed by the Applicant was dismissed by the Trial Court mainly on the ground that the material on record prima facie shows the complicity of the Applicant in commission of the crime. The learned Judge also observed that the Applicant was also involved in several other similar crimes. Being aggrieved by the dismissal of the bail application, the Applicant has filed this application under Section 439 of the Cr.P.C.

4. Heard Mr. Joshi, learned counsel for the Applicant and Mr. Pethe, learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The records prima facie reveal that the FIR was lodged on 06/05/2019 alleging that some unknown persons had visited the office of the First Informant and enquired with him whether he was interested in

buying DJ machine and amplifier. He was shown the photographs of the amplifier machine. The First Informant was asked to visit Solapur to inspect the machine. The First Informant thereafter was called to Solapur. He was asked to come at Bhima Sugar Factory and thereafter to proceed to village-Puluj. The First Informant has stated that some unknown persons directed him to accompany them. They took him to one shed, where about 7 to 8 unknown persons arrived. They abused and assaulted him with sticks and other weapons and took away gold chain, ring, money and watch from his possession. Pursuant to the FIR lodged by the First Informant, aforestated crime came to be registered.

6. The records prima facie reveal that the gold chain and ring was recovered from the house of one Amrapali Kale. The First Informant has also identified the Applicant in TI parade. The confessional statements of the co-accused were recorded under Section 18 of the MCOC Act, which prima facie show the complicity of the Applicant in commission of the said offences. The statements of the witnesses also prima facie show that the Applicant used to steal articles from used DJs and advertise the sale of such articles on You Tube and would commit theft of jewelry and money from the innocent purchasers.

7. The records reveal that the Applicant, who is stated to be a gang leader is involved in committing two crimes in respect of Section 302 of the IPC. In addition, the Applicant is also involved 7 other crimes for offences punishable under Sections 395, 396 and 399, etc. of the IPC. The records also reveal that the Applicant was absconding after commission of the crime. Learned APP, under instructions states that the trial has already commenced and three witnesses have been examined. Learned APP, under instructions states that the prosecution intends examining about 10 to 12 witnesses and that an endeavour will be made to conclude the trial within a period of one year.

8. Considering the above facts and circumstances and the bar under Section 21(4) of the MCOC Act, this is not a fit case to exercise discretion under Section 439 of the Cr.P.C. in favour of the Applicant. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)