



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

BAIL APPLICATION NO.3899 OF 2022

Raju Madhukar Bhosale

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Satyavrat Joshi with Mr. Samay Pawar for the Applicant.

Ms Manisha Devkar for the Intervenor.

Mr. S.V. Gavand, APP for the Respondent -State.

Mr. B.N. Pansare, ASI, Akluj Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 9th AUGUST, 2023.

P. C. :-

1. The Applicant, who is facing trial in MCOC Special Case No. 1 of 2020 pending on the file learned Sessions Judge, Malshiras, seeks enlargement on bail. The said case arises from C.R. No.517 of 2016 registered with Akluj Police Station, District-Solapur, for the offences punishable under Sections 302, 120-B, r/w 34 of the IPC and under Sections 3(1)(i), 3(2), 3(3) and 3(4) of Maharashtra Control of Organized Crime Act, 1999 and section 4(25) of Indian Arms Act.

2. The aforesaid crime was registered pursuant to the FIR lodged by Aniket Umbre. The facts narrated in the FIR prima facie

reveal that on 29/12/2016 at about 10:15 a.m., while the first informant and Nanasaheb Asabe were near Ashwini Hospital, Sangram Nagar, two armed miscreants, aged about 25 years came on a motorcycle with their faces covered with masks and fired at Nanasaheb Asabe. While Nanasaheb Asabe tried to escape, the said assailants again fired at him and caused serious injuries. Based on the said FIR, crime came to be registered against two unknown persons for offences under Section 307 r/w 34 of the IPC. Said Nanasaheb succumbed to the injuries on 26/01/2017. Hence, Section 302 of the IPC came to be added.

3. In the course of the investigation CCTV footage was obtained, statements of the witnesses came to be recorded, based on which the co-accused Parmeshwar Jadhav and Pradeep Mane stated to be the gang leader, came to be arrested. A country made pistol and live cartridges were recovered from the co-accused. The motorcycle bearing Registration No.MH-45 R 6408 used by the assailants was seized. The Applicant and the other co-accused herein came to be arrested. During the personal search of the Applicant, photographs of the deceased-Nanasaheb Asabe and Pravin @ Pampya were recovered from his possession. The investigation particularly the statement of the

co-accused Parmeshwar Jadhav revealed that the Applicant and others hatched criminal conspiracy to murder Nanasaheb Asabe. The investigation further revealed that the Applicant and others had formed an Organized Crime Syndicate, headed by the gang leader Pradeep Mane and that the said syndicate committed the offences singly or jointly to gain monetary benefit. Hence, approval was sought under section 23(1)(a) of MCOC Act and on getting the approval, provisions of MCOC Act came to be added and on completion of investigation, charge-sheet came to be filed against the Applicant and the other co-accused.

4. The bail application filed by the Applicant has been dismissed by the learned Special Judge on the ground that the material on record prima facie shows his involvement in commission of the crime. Being aggrieved by the said order, the Applicant has filed the application under section 439 of Cr.P.C.

5. Mr. Satyavrat Joshi, learned counsel for the Applicant states that the co-accused-Sachin Damodar Ekhatpure against whom similar accusations are made, has been granted bail by this Court by order dated 31/01/2023. He therefore seeks bail on the ground of parity. He

submits that the Applicant has been discharged in R.C.C. No.182/2007 arising from C.R.No.46/2007 of Akulj Police Station and contends that there is no prima facie material to show the involvement of the Applicant in commission of the aforesaid crime or to prove that he is a member of the organised crime syndicate. He submits that there was no animosity between the Applicant and the deceased and that the Applicant had no motive to conspire to commit his murder. Learned counsel for the Applicant further submits that the Applicant is in custody since 23/02/2017. Trial has not yet commenced and that there is no possibility of the trial concluding within a reasonable time.

6. Per contra, Mr. Gavand, learned APP and Ms Manisha Devkar, learned counsel for the Intervenor submit that the co-accused Pradeep Mane and Parmeshwar Jadhav are the actual assailants. They are involved in a series of such serious crimes, details of which are mentioned in the affidavit filed by Jalinder Nalkul, Sub-Divisional Police Officer, Barshi Division, Solapur. They contend that the Applicant has close nexus with the crime syndicate and that two other crimes being C.R. Nos.46 of 2007 and 48 of 2015 were registered against the Applicant. It is stated that the material on record prima facie proves the involvement of the Applicant in commission of the

crime. Considering the criminal antecedents of the Applicant and the bar under section 21(4) of the MCOC Act, the Applicant is not entitled for bail.

7. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

8. The records reveal that two armed persons came on a motorcycle and fired at Nanasaheb Asabe and thereby caused his death. The identity of the assailants was revealed from the CCTV footage and the statement of the witness and accordingly, the assailants came to be arrested. The records prima facie reveal that the motorcycle bearing No.MH-45-R-6408 used by the assailants at the time of firing, was recovered. The said motorcycle was owned by one Mr. Jagdale and the same was used by the Applicant herein. The material on record prima facie reveals that the Applicant had provided the motor cycle to the assailants. The statements of the co-accused Parmeshwar Jadhav and Ramesh Dhule also prima facie show the involvement of the Applicant in the criminal conspiracy to eliminate Nanasaheb Asabe and Pampya. The confessional statements of the co-accused also show that the Applicant had agreed to give money to the

assailants after committing death of Pampya and Nanasaheb Asabe. The photograph of Nanasaheb Asabe and the witness – Pravin Pampya Bhosale who was also to be eliminated, were recovered during the personal search of the Applicant. The statements of the witnesses also prima facie indicate that the Applicant herein had given shelter to the co-accused nos.1 to 3 in the house of his father-in-law and had also given them Rs.1,000/-.

9. The records reveal that Pradeep Mane is the gang leader of the Organized Crime Syndicate and 07 cases are pending against him. The material on record also prima facie reveals that the Applicant had closed nexus with the Organized Crime Syndicate. 02 cases were pending against him. It is stated that he has been discharged in one of the cases however, RCC No.386/2015 for offences under sections 307 and 364 of the IPC, is still pending. The records prima facie indicate that the Applicant has committed the present crime while he was on bail in RCC No.386/2015 and has thus misused his liberty. Considering the role attributed to the Applicant and the criminal antecedents, he is not entitled for bail on the principle of parity.

10. Having considered the entire material on record and in

view of the bar under section 21(4) of the MCOC Act, in my considered view, the Applicant is not entitled for bail. Hence, the Application is dismissed. Considering that the Applicant is in custody since long, the learned Special Judge is requested to expedite the trial and in any event to conclude the trial within a period of one year from the date of this order.

(SMT. ANUJA PRABHUDESSAI, J.)