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

BAIL APPLICATION NO. 445 OF 2023

SACHIN RAJARAM DHORE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Kedar J. Patil a/w Adv. Sachin Mane a/w Adv. Pratik
Tare a/w Adv. Sakshi Kadam a/w Adv. Jitesh Mundwa a/w
Adv. Gargi Joshi for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 15, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 307, 326, 143, 147, 148, 149 of the Indian Penal Code (hereafter 'IPC' for short), under Sections 3, 5, 25 of Arms Act, under Sections 37(1)(3), 135 of Maharashtra Police Act and under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short) registered on

25.03.2019 vide C.R. No.44 of 2019 with Bhuinj Police Station, District Satara.

3. There are in all eleven accused. The applicant is the accused no.9. The applicant was arrested on 26.07.2019. The date of the incident is 25.03.2019. As per the case of the prosecution the first informant along with his colleagues were doing their job at Toll plaza situated at Pune-Satara highway within the limits of virmode village. At that time one white coloured car came and tried to escape without paying toll amount. Hence, the employees at said toll plaza stopped the car and asked the driver to pay the toll. At that time the driver of the said car refused to pay the toll amount and abused the employees. The accused No.1-Rohidas Chorge fired a bullet from his pistol towards the first informant. Nobody was injured. Learned APP submitted that the offence is serious.

4. Factually there is no recovery of the pistol from the applicant though it is the allegation that the applicant has used a pistol for the purpose of firing at the time of incident.

5. Learned counsel for the applicant sought bail on the ground of parity. The trial Court by an order dated 26.08.2021 enlarged the co-accused No.5 – Vaibhav Sanjay Sable on bail. The order reads thus :-

“This is the application under Section 439 of Cr.P.C. r/w Section 21 of Maharashtra Control of Organized Crimes Act, 1999.

02. Applicant is arrested in Crime No.44 of 2019 registered with Bhujinj Police Station on 30.03.2019. Crime is registered in respect of offences punishable under Section 307, 326, 143, 147, 148, 149 of the Indian Penal Code, Section 3, 5/25 of the Arms and Section 3(1)(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crimes Act. Accused is in magisterial custody.

03. Application is filed on the ground that, accused has not committed any offence much less the offence alleged to have been committed by him, he is arrested on the basis of skepticism, his name is not mentioned in the FIR as well as statement of first informant, he has not inflicted any injury to the first informant, no incriminating material has been recovered or discovered at his behest, no specific overt act has been attributed to the applicant, allegations against him are vague, ambiguous and futile, there is no cogent and reliable material on record which would establish the nexus of applicant with the alleged offence or alleged Organised Crime Syndicate, investigation is completed, he is ready and willing to abide by any terms and conditions imposed on him, he is ready and willing to furnish surety to the satisfaction of the Court, he will not tamper with the prosecution witnesses, he is permanent resident of Sabalewadi, Taluka Khed, District Pune.

04. Application is opposed by prosecution by filing report Exh. 129 of the Investigating Officer stating that, this applicant has taken actual part in commission of offence and he is very well seen in the CCTV footage collected from the spot of incident, the CDR record of the mobile

handset used by the applicant is collected, the tower location of said mobile shows that, the applicant was present at the spot of incident at the time of commission of offence, he has handed over the weapon Pistol used in the commission of crime as per Section 27 of the Evidence Act, it is also clear that he was in contact with the other accused, if he is released on bail he may help the absconding accused and he will also abscond, there is possibility of tampering and pressurising the witnesses, lastly prayed to reject the application.

05. Heard Advocate for applicant and learned A.P.P.

06. Advocate for applicant relied upon judgment of Hon'ble High Court in Bail Application No.2241 of 2018 Girish Kumaran Nayar Vs. State of Maharashtra wherein it is observed by Hon'ble High Court that, "in order to bring an alleged act within the ambit of MCOC Act, the above mentioned requirements are mandatory. Therefore, word "in respect of which" in definition of clause of "continuing unlawful activity" indicates that it is not a normal charge-sheet, alleging commission of cognizable offence but requirement is that alleged acts is undertaken either singly or jointly by the accused, who is member of organised crimes syndicate or is undertaken on behalf of such syndicate In the case in hand, no efforts were made by the prosecution to show that past. two offences in respect of which charge- sheets were filed, were committed by the applicant as member of organised crime syndicate, i.e. acting as syndicate or a gang or on behalf of such syndicate"

07. In present case, role attributed to the applicant is that one Pistol is shown to be seized from the applicant as per panchanama under Section 27 of the Evidence Act, however FIR does not indicate that, applicant has used the Pistol while commission of offence no one has sustained injury by said firearm. To make applicable the provisions MCGC Act applicant's Involvement in Crime No.31 of 2013 registered with Velhe Police Station is shown which was registered in respect of offence punishable under Section 147 of the Indian Penal Code about which charge-sheet bearing Regular Criminal Case No.401162 of 2014 was filed and said case is disposed of, hence the alleged act

undertaken by the applicant cannot be said is undertaken as a member of organised crime syndicate, no nexus has been established between previous crime and present crime, hence the applicant may be granted bail by imposing conditions."

6. It is thus seen from the order that the co-accused Vaibhav has used pistol in the commission of the offence and the same has been seized from him as per panchanama under Section 27 of the Evidence Act. So far as the present applicant is concerned, learned APP pointed out from the affidavit which is filed on behalf of the respondent that there are as many as three cases pending against the applicant prior to the registering of the present offence. So far as the offence of the year 2011 is concerned, the applicant has been acquitted. In C.R. No.262 of 2013 registered with Lonikand Police Station, Pune under Sections 324, 323, 336 of the IPC which is shown to be pending is concerned, learned counsel for the applicant submitted that he has been acquitted. The copy of the judgment of the trial Court acquitting the applicant in C.R. No.262 of 2013 is placed on record. Thus, there is a C.R. No.1021 of 2016 registered with Lonikand Police Station,

Pune under Sections 364, 342, 324, 323, 504 of the IPC which is pending against the applicant and the present case.

7. The investigation is complete. The charge-sheet has been filed. The trial is likely to take a long time to conclude. The applicant is in custody almost for four years and two months. The applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Sachin Rajaram Dhore in connection with C.R. No.44 of 2019 registered with Bhuinj Police Station, District Satara shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Bhuinj Police Station, District Satara once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not enter the jurisdiction of Lonikand Police Station, District Pune considering the number of antecedents against him, though the offence is registered at Bhuinj Police Station, District Satara as the offence is alleged to have taken place at Bhuinj on the way to Satara.

8. The application is disposed of.

(M. S. KARNIK, J.)