



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

BAIL APPLICATION NO. 578 OF 2023

DEEPA VIRENDRA PAWAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
BAIL APPLICATION NO. 225 OF 2023**

SONALI DEEPAK GAVARE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
BAIL APPLICATION NO. 570 OF 2023**

NANDA NANASAHEB GAIKWAD ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO. 3571 OF 2023
IN
BAIL APPLICATION NO. 578 OF 2023
WITH
INTERIM APPLICATION NO. 3175 OF 2023
IN
BAIL APPLICATION NO. 225 OF 2023
WITH
INTERIM APPLICATION NO. 3216 OF 2023
IN
BAIL APPLICATION NO. 570 OF 2023**

USHA POPAT KATE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Sr. Advocate Rajiv Patil a/w Adv. Kishan Chaudhari for the Applicant in BA/578/2023.

Adv. Chaitanya Pendse i/b Adv. Anuradha Joshi for the Applicant in BA/225/2023.

Adv. H.S. Venegaonkar a/w Adv. Rajabhau Chaudhari i/b Adv. Vishal Kolekar for the Applicant in BA/570/2023.

Sr. Advocate Raja Thakare, Spl. Counsel a/w Adv. Siddharth Jagushte for the State.

Sr. Advocate Shirish Gupte a/w Adv. Vrishali Raje a/w Adv. Shagufa Patel i/b Adv. Harshad Bhadbhade a/w Adv. Kuldeep S. Patil a/w Adv. Hrishikesh P. Dhumal a/w Adv. Shailesh D. Chavan for the Intervener.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 31, 2023

P.C. :

1. Heard learned senior advocate Shri Patil, learned counsel Shri Venegaonkar and learned counsel Shri Pendse for the applicants, learned senior advocate Shri Thakare, Special Counsel for the State and learned senior advocate Shri Gupte for the intervener.

2. These are the applications for bail in respect of the offence punishable under Sections 307, 386, 341, 201, 204, 206, 120-B, 506, 141, 143, 147, 148, 149 of the Indian Penal Code (hereafter 'IPC' for short), Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014,

Sections 37(1) read with 135 of the Maharashtra Police Act, Section 3(25) of the Arms Act and Sections 3(1)(ii), 3(2), 2(3), 3(4), 3(5) and 4 of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short) registered on 22/07/2021 vide C.R. No.325 of 2021 with Chatushrungi Police Station, Pune.

3. There are in all 9 accused. The applicant Deepa Virendra Pawar is accused No.9. The applicant Nanda Nanasheb Gaikwad is accused No.2 and the applicant Sonali Deepak Gavare is accused No.4. The main accused is accused No.1- Nanasaheb Gaikwad. The applicant Nanda is the wife of accused No.1. She is 70 years of age. The applicants Deepa and Sonali are the daughters of accused Nos.1 and 2. The complainant is Usha Popat Kate. I have gone through the contents of FIR and the relevant materials to which my attention is invited. The statement of the complainant was recorded on 22/07/2021.

4. The case of the prosecution in brief is that accused No.1 is a money lender. Accused No.1 lends money at a heavy rate of interest. If there is any default in payment of

money then the accused No.1 with the use of threat, physical violence, force and at gunpoint recovers money from the victims. Not only that, it is also the case of the prosecution that the victims are forced to sign documents in respect of their immovable property favouring the accused and even in some cases luxury cars are forced to be transferred by the victims in favour of the accused No.1 and his family members.

5. So far as the accusations in the present FIR are concerned, it is alleged that the complainant's son had borrowed money from accused No.1. There was a default in the payment. Accused No.1, therefore, threatened the son of the complainant. On the previous occasion as well, the complainant and her son had registered a complaint at the police station in respect of threats which were issued by accused No.1 and his family members.

6. On the date of the incident, at the instance of accused No.1, his daughter accused No.4 - Sonali alongwith some accused went to the house of the complainant and called upon them to vacate the property. They threatened the son

of the complainant with dire consequences. When the complainant and her son went to the house of accused No.1, the accused No.1, his son, son-in-law and other accused threatened them. The complainant and her son were forced to sign the blank documents. When the complainant resisted, accused No.1 took out a revolver and fired bullets in the air. Accused No.1 made the complainant sign an agreement at gunpoint. Thereafter, the complainant and her son were assaulted and in a car taken to the bungalow of accused No.4. After threats of dire consequences should they lodge any complaint with the police, the complainant and her son were let off by the accused.

7. Learned senior advocate Shri Thakare, special counsel for the State, submitted that the accusations are serious in nature. My attention is invited to the statements of the witnesses which reveal the manner and the modus operandi adopted by the accused No.1 and his family members while conducting the money-lending business. The recovery of money was made by threats, force and at gunpoint.

Learned senior advocate relied upon the statement of Swapnil Ganpatrao Balwadkar who was made to sign documents forcefully in a similar manner after threatening him. Reliance was then placed on another statement of one Ramesh Shivaji Yewale who stated that when he failed to pay accused No.1 the amount which was lent, the victim was forcefully made to transfer his Mercedes Benz car in the name of the accused No.1's daughter - Deepa (accused No.9 herein). Learned senior advocate also relied upon the statement of the son-in-law of accused No.1 who is the husband of Deepa to indicate that even the son-in-law was not spared by accused No.1. It is further submitted that the applicants are continuing their activities even while in custody.

8. Shri Gupte, learned senior advocate appearing for the complainant, was at pains to point out the reign of terror created by the accused. It is submitted that properties worth crores of rupees belonging to victims is forcefully taken charge of by the accused and in that process the present applicants are actively assisting accused No.1. My

attention is invited to the role of the accused - Nanda so far as the present C.R. is concerned. Learned senior advocate submitted that she was not only present at the time when the offence was committed but she actively participated in the commission of the present crime. The learned senior advocate referred to Section 120-B of the IPC in support of his submission that the accused conspired with each other and submitted that the role of the present applicants cannot be any lesser than that of the accused No.1 in the facts and circumstances of the present case.

9. Shri Gupte, learned senior advocate then relied upon the definition of Section 2(e) of the MCOCA to submit that the activities of the accused fall within the meaning of the 'organised crime' as the unlawful means adopted by the accused was with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage not only for the accused No.1 but for the other accused as well. Learned senior advocate submitted that the activities of the accused No.1 who is the gang leader qualify as organised crime syndicate. It is further submitted that the

complainant had the courage to stand up to the atrocities of accused No.1 and after the present complaint was registered there are several other victims who have gathered the courage to come forward for registering similar offences against accused No.1 and present applicants which are increasing with every passing day. The learned senior advocate submitted that having regard to sub-section 4 of Section 21 of the MCOCA, the twin conditions stipulated therein need to be satisfied. It is submitted that this Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. Furthermore, it is submitted that having regard to the criminal history of the applicants, the applicants are likely to commit further offence while on bail.

10. Learned senior advocate Shri Thakare as well as learned senior advocate Shri Gupte were thus at pains to point out that present is a case where the applicants do not deserve any sympathy even though they are women, having regard to the nature of the accusations against

them. It is prayed that the applications be dismissed.

11. I have gone through the accusations. So far as the present offence is concerned the major accusations are against accused No.1. Having gone through the various statements on record, it is apparent that the accusations are mainly against accused No.1. No doubt, there are accusations against the present applicants as well. The applicant - Nanda is the wife of accused No.1. So far as the present C.R. is concerned, the accusations would show that she was present when the complainant was threatened by accused No.1. Furthermore, there is a role assigned to the applicants - Nanda and Sonali that these applicants caught hold of the neck of the complainant and assaulted her with fists and blows. During the course of the investigation, the revolver belonging to accused No.1 was recovered from the locker of the applicant- Nanda. So far as Deepa is concerned, the role assigned to her is that she tried to hide the documents relating to the sale transaction in respect of the property belonging to the complainant after it was revealed that the C.R. was registered by the complainant.

The applicant Deepa was not actually present at the time of the incident. There are accusations on record that in respect of some other offence, property and a luxury car belonging to the one of the victims was transferred in the name of the applicant Deepa at the instance of the accused No.1.

12. I have gone through the affidavit-in-reply filed on behalf of respondent- State by Ashwini Ganesh Rakh, Assistant Commissioner of Police, Pune City. There are as many as 12 offences registered against accused No.1. So far as the applicants are concerned, prior to the lodging of the present C.R. there is one offence vide C.R. No. 293 of 2021 registered with Chatushrungi police station against them under Sections 498(A), 392, 354, 326(A), 323, 325, 406, 420, 120(B), 506 and 34 of the IPC read with Section 3 of the Dowry Prohibition Act read with Section 3 of the Maharashtra Prevention and Eradication extent and commencement of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013. So far as the applicant- Deepa is concerned, there is one more

offence vide C.R. No. 375 of 2021 registered against her with the Chatushtrungi police station under Sections 307, 386 of the IPC, under Section 39 of the Maharashtra Money Lending Act and under Section 3(25) of the Arms Act.

13. Though the incident is of December 2020, the C.R. was registered on 22/07/2021. The explanation is that the accused No.1 wields tremendous political clout. The applicants are women. The applicants Deepa, Nanda and Sonali were arrested on 30/08/2021, 19/08/2021 and 23/07/2021 respectively and effectively in custody for more than 2 years. The applicant- Nanda is 70 years of age. Shri Thakare, learned senior advocate, made an attempt to submit that the trial is ripe for hearing and therefore, it is a fit case for expediting the trial instead of enlarging the applicants on bail. I am informed that the charge is not yet framed. There are as many as 81 witnesses to be examined. Shri Thakare submitted that not all the witnesses will be examined. The prosecution is likely to examine 40 witnesses.

14. The trial is likely to take a long time to conclude. No

doubt, there are accusations against the present applicants. However, having regard to the role of the applicants in the present offence and the nature of the antecedents from the materials on record, it is apparent that the major allegations are against the accused No.1 and other accused. In my opinion, therefore, though the provisions of MCOCA are invoked, having regard to the facts of the case, the role of the applicants, that the applicants are incarcerated for more than 2 years as undertrials, the rigours of sub-section 4 of Section 21 of the MCOCA can be overcome and I record my satisfaction accordingly. In the facts and circumstances of the present case, I am inclined to enlarge the applicants on bail by imposing stringent conditions. The investigation is complete and the charge-sheet has been filed. Shri Patil, learned senior advocate, Shri Venergaonkar and Shri Pendse, on instructions, submitted that the applicants are ready to reside outside the State of Maharashtra if granted bail and it is further submitted by them that during the pendency of trial the applicant - Deepa will be staying in the state of Andhra Pradesh, the applicant- Nanda will be

staying in the state of Karnataka and the applicant - Sonali will be residing in the state of Telangana. The statement is accepted. Having regard to the accusations against the applicants and the materials on record, I am satisfied that though the conditions may appear harsh, but this is fit case where the applicants should reside outside the state of Maharashtra and individually in different states. Hence, the following order :-

ORDER

- (a) The applications are allowed.
- (b) The applicants- Deepa Virendra Pawar, Nanda Nanasaheb Gaikwad and Sonali Deepak Gavare in connection with C.R. No.325 of 2021 registered with Chatushrungi Police Station shall be released on bail on their furnishing P.R. Bond of Rs.1,00,000/- each with one or more solvent sureties each in the like amount.
- (c) Except for attending the trial, the applicants shall not enter in the state of Maharashtra after being released on bail, till the trial concludes.
- (d) On being released on bail, the applicants shall furnish their contact numbers and residential addresses while residing outside the State of Maharashtra to the Investigating Officer and to the trial Court and shall keep

them updated, in case there is any change.

(e) The applicants shall furnish the details of the nearest police station to the place of their residence while residing outside the State of Maharashtra to the trial Court and to the Investigating Officer. The applicants shall report to such police station twice a month, every first and third Monday of the month, between 11.00 a.m. and 1.00 p.m.

(f) The applicants 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 applicants shall not tamper with evidence.

(g) The applicants shall not contact or intimidate or threaten the complainant or any witnesses.

(h) The applicants shall attend the trial regularly. The applicants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(i) The applicants shall abide by the statement made to this Court.

(j) If any of the conditions are breached, the same shall be viewed seriously and will invite the consequence of cancellation of this bail.

15. The bail applications are disposed of. All the interim applications are disposed of.

16. Shri Gupte, learned senior advocate, requested this Court to stay this order for a period of 4 weeks. The request is rejected.

(M. S. KARNIK, J.)