IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.868/2022

VIVEK CHANDRAKANT MANJREKAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

WITH
INTERIM APPLICATION NO.3212/2022
IN
BAIL APPLICATION NO. 868/2022

DIVYESH RAJENDRA DESAI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

WITH
BAIL APPLICATION NO.1007/2022

MUKESH CHUNILAL BHATIA ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

WITH
INTERIM APPLICATION NO.3721/2022
IN
BAIL APPLICATION NO.1007/2022
WITH
INTERIM APPLICATION NO.3211/2022
IN
BAIL APPLICATION NO.1251/2022
WITH
INTERIM APPLICATION NO.3213/2022
IN
BAIL APPLICATION NO.2423/2022

DIVYESH RAJENDRA DESAI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

WITH
BAIL APPLICATION NO.1251/2022

ARUN PURSHOTTAMDAS UPADHYAY ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

WITH
BAIL APPLICATION NO.2423/2022

MANDAR AJIT BORKAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Aniket Nikam i/by. Adv. Vivek Arote for the applicant in BA/868/22.
Mr. S. V. Gavand, APP for State.
Adv. Sudeep Pasbola a/w. Adv. Ayush Pasbola, Adv. Sumit Shinde, Adv. Sankalp Vichare for intervener in IA/3212/, IA/3721/22, IA/3211/22, IA3213/22.
Adv. Shekhar Jatgap a/w. Adv. Rhea Francis i/b. J. Shekhar & Co. for the applicant in BA/1007/22.
Adv. Rushikesh Kale for the applicant in BA/2423/22.
Adv. Shantanu Phanse a/w. Adv. Akshay Vani, Adv. Manan Jaiswal i/b. MLS Vani & Associates for the applicant in BA/1251/22.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 24, 2023.

P.C. :

1. My attention is invited to the order dated January 2, 2023 passed by the Hon’ble Supreme Court in the case of **Vivek Chandrakant Manjrekar vs. The State of Maharashtra**[1]. The order reads thus:-

1 SLP (Crl.) No.12166/2022

"UPON hearing the counsel the Court made the following

O R D E R

Having heard learned counsel for the petitioner, we see no reason to intervene at this juncture.

However, taking note that the bail application filed by the petitioner has been repeatedly adjourned by the High Court and we have been told that it is now listed on 24.01.2023, we request the High Court to consider and dispose of the bail application in accordance with law on the said date since as already noted the application has been pending for quite some time.

The Special Leave Petition is disposed of.

Pending application (s) shall stand disposed of."

2. Accordingly, I have taken up Criminal Bail Application No.868/2022 for consideration and disposal. The other bail applications to stand de-tagged as request for adjournment is made in those matters.

3. The applicant-Vivek Chandrakant Manjrekar seeks bail in respect of C.R.No.63/2021 registered with DCB-CID, Unit-XI for the offences punishable under Sections 307, 326, 324, 504, 506(ii), 120-B, 143, 144, 147, 148, 149, 188, 269 of the Indian Penal Code, 1860 (hereafter 'IPC' for short) read with Section 4(25) of the Arms Act read with Section 37(1), 135 of the Maharashtra Police Act read with Section 51(b) of the National Disaster Management Act read with Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOC Act' for short) against 19 known accused and 5 unknown accused persons. Initially the First Information Report (FIR) was registered with MHB Police Station, Mumbai, vide C.R.No.599/2021. Thereafter, the investigation came to be transferred to DCB-CID and the present FIR bearing No.63/2021 came to be registered.

4. The prosecution case in brief is as under:-

The complainant is Divyesh Rajendra Desai whose statement was recorded on July 18, 2021 (page 63 of the paper-book). The dispute is in respect of the plot No.301, which is situated at Dahisar (W), Mumbai. The plot was originally owned by one Smt. Deubai Thakur. The same was purchased by Shri Taukir Khan in the year 1983 by a registered agreement. Since then the property is in possession of the Taukir Khan. In the year 1990, name of Smt. Kashibai Patil, who happened to be the sister of original owner Deubai Thakur along with her legal heirs mutated their names in the mutation entries and since then their names are reflected in the 7/12 extract. On a challenge by Taukir Khan, the Competent Authority set aside the mutation entries which were in favour of Kashibai Patil. In 2006, Kashibai Patil filed a suit in this Court which was dismissed in 2016. In July 2021, the complainant along with Taukir Khan, established a construction company by name ‘Solaris’ with an intention to construct a school on the said plot. Kashibai and her legal heirs, despite there having no title, sold the said plot to one Mukesh Bhatia (one of the accused) of ‘Icon Developers ‘ and Arun Upadhyay (also one of the accused) of ‘Shreeji Sharan Developers’. On July 8, 2021, when the complainant went to visit his plot, Arun Upadhyay and Mukesh Bhatia who happened to be physically present on the plot, informed the complainant that they had purchased the said property from Kashibai and her legal heirs. They tried to put up their board, displaying their name as owners and since then, the dispute is going on between the parties.

5. It is the case of the complainant that on July 18, 2021, the complainant along with his father, two advocates and other associates visited the said plot, when about 15 to 20 persons came there and tried to remove the board of the complainant on the property and asked the complainant and his associates to leave the spot saying that the property belongs to Mukesh Bhatia and Arun Upadhyay. When the complainant and his associates objected to that, the accused threatened to kill them if they failed to leave. When the complainant refused to leave, some of the accused ran towards an auto-rickshaw standing at the spot and took out deadly weapons like swords, bamboos and iron rods from it and assaulted the complainant and his fellow associates. The complainant and his associates were taken to the hospital for treatment to their injuries. Thereafter, the offences came to be registered against 22 accused persons. The applicant was arrested on August 24, 2021.

6. According to the prosecution, a syndicate headed by Mandar Ajit Borkar (one of the accused) was involved in the commission of the offence, therefore, the Investigating Agency applied for sanction for invoking the provisions of the MCOC Act in the present case. The Joint Commissioner of Police (Crime) granted sanction on August 2, 2021 for applying MCOC Act to the case.

7. The charge-sheet came to be filed on October 14, 2021 against 17 arrested accused. Post arrest of accused no.10-Manoj Shinde, accused no.11-Akash Jagtap and accused no.7-Sanjay Nivetkar, the swords used by the accused in the commission of crime were recovered. The auto-rickshaw used in the commission of crime was found and from the said auto-rickshaw, 11 bamboo sticks were recovered. The auto-rickshaw is registered in the name of the accused no.14-Vikas Kamble.

8. Following are the witnesses whose statements came to be recorded under Sections 161 and 164 of the Code of Criminal Procedure (hereafter 'Cr.P.C.' for short):

1. Divyesh Rajendra Desai (complainant/injured)
2. Rajendra Dayalji Desai (father of complainant)
3. Ankit Tandon (advocate of complainant)
4. Satyadev Joshi
5. Taukir khan
6. Rahul Suryavanshi
7. Amit Vijay Tawade
8. Milind K. Parab
9. Sahilendra Gajanand Salvi
10. Mohammed Iqbal Attarwala
11. Abbas Ahmed T. A. Khan
12. Haji T. A. Khan.

The injury certificates of the respective victims are a part of the charge-sheet reflecting simple injuries.

9. Learned counsel for the applicant-Vivek Manjrekar (accused no.16) invited my attention to the statement of Mohd. Iqbal Attarwala dated August 14, 2021 in support of his contentions which is at page 1426 of the paper-book. It is submitted that the applicant was not present at the spot when the incident took place. The applicant has no criminal antecedents. The applicant is not the assailant. The injuries suffered by the victims are simple in nature. It is on the basis of the confessional statement recorded under Section 18 of the MCOC Act that the applicant is arrested. Learned counsel for the applicant tried to justify the position of the applicant by contending that he is a Power of Attorney holder through Mohd. Iqbal Attarwala in respect of the plot No.301 and that he has a right to deal with the plot in question. It is submitted that Mukesh Bhatia and Arun Upadhyay (co-accused) were also claiming rights over the property and therefore, the meeting was organized. According to learned counsel, the statements of the witnesses in favour of the applicant-Vivek would reveal that pursuant to the meeting with the co-accused, the applicant accepted a sum of Rs.15 lakhs for foregoing his rights in the property in favour of Mukesh Bhatia and Arun Upadhyay. This amount which the applicant received is being wrongly construed by the prosecution to mean that the said amount was accepted by the applicant for the purpose of getting forceful possession of the plot from the complainant with the help of the syndicate headed by the co-accused Mandar Borkar (gang leader).

10. In ordinary course, in the absence of application of MCOC Act, if the offence registered vide C.R.No.63/2021 were to be a stand alone offence, I may have been inclined to grant bail to the applicant considering that the applicant is not the assailant, the injuries suffered by the victims are simple in nature, the applicant was not present at the spot and that the applicant is implicated on the basis of his own statement.

11. However, I have to consider the present application from the point of view of the provisions of the MCOC Act and the law laid down by the Hon'ble Supreme Court and this Court interpreting the provisions of MCOC Act. Following decisions are relied upon by learned counsel in support of their submissions: -

1. **Prasad Shrikant Purohit vs. State of Maharashtra and another.**[2] relied by learned counsel for the applicant-Vivek Manjrekar (paragraph 86).

2. **Kavitha Lankesh vs. State of Karnataka & others**[3] (paragraph 27).

3. **Abhishek vs. State of Maharashtra and Ors.**[4]

4. The decision of this Court in **Govind Sakharam Ubhe vs. State of Maharashtra**[5].

12. Following is the material against the present applicant:-

The confessional statement under Section 18 of the MCOC Act of the applicant (accused no.16) recorded on August 27, 2021. The applicant confessed to the commission of the crime on the contract given by the accused no.3-Mukesh Bhatia and accordingly, engaged the gang of Mandar Borkar (co-accused) to help him in removing the original owners from the land and to handover

2 (2015) 7 SCC 440.
3 2021 SCC OnLine SC 956.
4 AIR 2022 SC 2488.
5 2009 ALL MR (Cri) 1903.

the possession to Mukesh Bhatia and Arun Upadhyay. The C.C.T.V. footage of July 12, 2021 of the office of the accused no.3-Mukesh Bhatia, wherein Mukesh Bhatia is seen with the applicant and two other witnesses exchanging cash, which would reveal the fact of hatching conspiracy. The C.C.T.V. footage came to be seized under the panchanama dated July 25, 2021. In the confession, the applicant has stated that a deal of Rs.20 lakhs was finalized between the accused syndicate for dispossessing the complainant from his property. The applicant-Vivek stated that he received an amount of Rs.5 lakhs on July 14, 2021 from accused-Mukesh Bhatia.

13. The applicant further confessed that the amount of Rs.15 lakhs in cash which he received from the accused-Mukesh Bhatia during the meeting on July 14, 2021, was handed over by him to accused-Mandar Borkar on July 16, 2021. During the course of the investigation, it was revealed that the accused-Mukesh Bhatia has paid Rs.5 lakhs to the applicant and thereby engaged the gang of co-accused Mandar Borkar for taking possession of the said plot on his behalf. I may hasten to add that the confessional statement is not the only material against the applicant. There are other pieces of materials in the form of call detail records, video recordings, statements of the witnesses, etc. indicating the involvement of the applicant with the organized crime syndicate.

14. The applicant-Vivek had parked a container on the plot which was alleged to be stolen later. It is the prosecution version that the container was parked on the property with a view to take possession of the property forcibly, which was carried out on instructions of the applicant-Vivek. The statements of the witnesses Sachin Joshi and Bharat Pahilwani who were present in the meeting where the said exchange of cash took place, came to be recorded on August 11, 2021 and August 12, 2021 respectively.

15. The confessional statement of the applicant-Vivek is recorded under Section 18 of the MCOC Act. An attempt was made by learned counsel for the applicant-Vivek to contend that the applicant cannot be deprived of the facility of the bail only on the basis of the confessional statement recorded under Section 18 of the MCOC Act. According to him, the said confessional will have to be read with the applicant's statement recorded before the Magistrate. I, however, find that the applicant has not resiled from the confession earlier made.

16. I tend to agree with the submissions of learned APP that the applicant was a direct participant along with other accused in the meeting held on July 16, 2021 in pursuance of the pre-incident conspiracy leading to the present crime. *Prima facie*, the materials on record indicate that the applicant was seen taking cash during the meeting with accused no.3-Mukesh Bhatia and that during the meeting on July 16, 2021, the applicant handed over the cash of Rs.15 lakhs to the gang leader Mandar Borkar which the applicant-Vivek received from the accused-Mukesh Bhatia on July 14, 2021.

17. The chart produced by the prosecution would indicate the C.Rs. recorded against the gang leader Mandar Ajit Borkar and other co-accused which are in common. At Serial No.12 is the present offence. As can be seen from the chart the commonality of the offence between the applicant and the gang leader is only in respect of Serial No.12 of the chart i.e. the present C.R.No.63/2021. There are 12 offences shown to be registered against the gang leader. So far as the offence at Serial No.5 is concerned, the same is registered against the gang leader along with other accused- Manoj Shinde, Sanjay Nivatkar and Aakash Jagtap, who are also involved in the present offence. At Serial No.11, the offence under Sections 504, 506(2), 120-B of the IPC is registered against the gang leader Mandar Borkar and Vishal Ovhal who is the co-accused in the present case.

18. No doubt, the applicant's involvement with the crime syndicate is seen only in the present case. But the allegation is that he took help of the crime syndicate headed by accused-Mandar Borkar to get the plot vacated on behalf of accused-Mukesh Bhatia. In the face of these allegations, the question is whether the prosecution is justified in applying MCOC Act qua the present applicant.

19. To answer this question, I draw support from the decision of this Court in **Govind Sakharam Ubhe** (supra). Paragraphs 31 to 39 which has a direct bearing on the controversy reads thus:-

> "31. Mr. Desai then submitted that since against the appellant only one charge-sheet is filed, he is not covered

by Section 2(1)(d) of the MCOC Act which defines "continuing unlawful activity". Consequently, the appellant cannot be tried for offences under the MCOC Act.

32. In order to understand this submission it is necessary to have a closer look at certain provisions of the MCOCA and its preamble. The preamble states that it is an Act to make special provisions for prevention and control of, and for coping with the criminal activity by organized crime syndicate or gang, and for matters connected therewith and incidental thereto. The MCOCA, states the preamble, makes special provisions for prevention and control of, for coping with, criminal activity by organized crime syndicate or gang. Essentially, therefore, the MCOCA targets the unlawful activities of the organized crime syndicate.

33. Section 1(f) defines `organized crime syndicate' to mean a group of two or more persons who acting singly or collectively as a syndicate or gang indulge in activities of organized crime. Section 1(e) defines `organized crime' to mean any continuing unlawful activity by an individual singly or jointly, either as a member of an organized crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion or other unlawful means, with objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency.

34. Therefore, the MCOCA contemplates a situation where a group of persons as members of organized crime syndicate indulge in organized crime. That is, they indulge in use of violence, threats of violence, intimidation, etc. to gain pecuniary benefit or undue economic or other

advantage for themselves or any other person. These activities as per the definition of organized crime are continuing unlawful activity prohibited by law.

35. It is now necessary to go to the definition of `continuing unlawful activity'. Section 2(1)(d) defines `continuing unlawful activity' to mean an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheet have been filed before a competent court within the preceding ten years and that court have taken cognizance of such offence. Thus, for an activity to be a `continuing unlawful activity' -

a) the activity must be prohibited by law;

b) it must be a cognizable offence punishable with imprisonment of three years or more;

c) it must be undertaken singly or jointly;

d) it must be undertaken as a member of an organized crime syndicate or on behalf of such syndicate

e) in respect of which more than one charge-sheet have been filed before a competent court.

36. The words `in respect of which more than one charge-sheet have been filed' cannot go with the words `a member of a crime syndicate' because in that case, these

words would have read as `in respect of whom more than one charge-sheet have been filed'.

37. But even otherwise, if all provisions are read together we reach the same conclusion. Section 2(1)(d) which defines `continuing unlawful activity' sets down a period of 10 years within which more than one charge-sheet have to be filed. The members of the crime syndicate operate either singly or jointly in commission of organized crime. They operate in different modules. A person may be a part of the module which jointly undertakes an organized crime or he may singly as a member of the organized crime syndicate or on behalf of such syndicate undertake an organized crime. In both the situations, the MCOCA can be applied. It is the membership of organized crime syndicate which makes a person liable under the MCOCA. This is evident from section 3(4) of the MCOCA which states that any person who is a member of an organized crime syndicate shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine, subject to a minimum of fine of Rs.5 lakhs. The charge under the MCOCA ropes in a person who as a member of the organized crime syndicate commits organized crime i.e. acts of extortion by giving threats, etc. to gain economic advantage or supremacy, as a member of the crime syndicate singly or jointly. Charge is in respect of unlawful activities of the organized crime syndicate. Therefore, if within a period of preceding ten years, one charge-sheet has been filed in respect of organized crime committed by the members of a particular crime syndicate, the said

charge-sheet can be taken against a member of the said crime syndicate for the purpose of application of the MCOCA against him even if he is involved in one case. The organized crime committed by him will be a part of the continuing unlawful activity of the organized crime syndicate. What is important is the nexus or the link of the person with organized crime syndicate. The link with the `organized crime syndicate' is the crux of the term `continuing unlawful activity'. If this link is not established, that person cannot be roped in.

38. In order to substantiate our construction of Section 2(1)(d) of the MCOCA, we will take hypothetical example of accused 1(A), accused 2(B), accused 3(C) and accused 4(D), who are members of the organized crime syndicate and who have committed crimes within preceding ten years. Insofar as accused A is concerned, it is alleged that he has committed an offence resulting in the death of any person which is punishable with death or imprisonment for life as described in Section 3(1) of the MCOCA. Accordingly, one charge-sheet is filed against him. Insofar as accused B is concerned, it is alleged that he has committed an offence resulting in the death of any person which is punishable with death or imprisonment for life as described in Section 3(2) of the MCOCA. Accordingly, one charge-sheet is filed against him. Likewise, insofar as accused C is concerned, it is alleged that he has committed an offence resulting in the death of any person which is punishable with death or imprisonment for life as described in Section 3(3) of the MCOCA. Accordingly, one charge-sheet is filed against him. Finally, it is alleged that accused D is a

member of organized crime syndicate as described in Section 3(4) of the MCOCA and as such has indulged in organized crime and against whom also one charge-sheet is filed.

39. The submission on behalf of the appellant is that even though all the four accused namely, A, B, C and D may be members of the organized crime syndicate since against each of the accused not more than one charge-sheet is filed, it cannot be held that they are engaged in continuing unlawful activity as contemplated under Section 2(1)(d) of the MCOCA. Apart from the reasons which we have given hereinabove as to why such a construction is not possible, having regard to the object with which the MCOCA was enacted, namely to make special provisions for prevention and control of organized crime syndicate and for coping with criminal activity by organized crime syndicate, in our opinion, Section 2(1)(d) cannot be so construed. Such a construction will defeat the object of the MCOCA. What is contemplated under Section 2(1)(d) of the MCOCA is that activities prohibited by law for the time being in force which are punishable as described therein have been undertaken either singly or jointly as a member of organized crime syndicate and in respect of which more than one charge-sheets have been filed. Stress is on the unlawful activities committed by the organized crime syndicate. Requirement of one or more charge-sheet is qua the unlawful activities of the organized crime syndicate."

20. A reading of the decision of this Court in **Govind Sakharam Ubhe** (supra) leads me to take a view, in the facts of the present case that there was already an organized crime syndicate functional. As observed in paragraph 37 in **Govind Sakharam Ubhe**, it is the membership of organized crime syndicate which makes a person liable under the MCOCA. The charge under the MCOCA ropes in a person who as a member of the organized crime syndicate commits organized crime i.e. acts of extortion by giving threats, etc. to gain economic advantage or supremacy, as a member of the crime syndicate singly or jointly. Charge is in respect of unlawful activities of the organized crime syndicate. Therefore, if within a period of preceding ten years, one charge-sheet has been filed in respect of organized crime committed by the members of a particular crime syndicate, the said charge-sheet can be taken against a member of the said crime syndicate for the purpose of application of the MCOCA against him even if he is involved in one case. The organized crime committed by him will be a part of the continuing unlawful activity of the organized crime syndicate. In the present case, *prima facie*, the materials on record do suggest that there is a nexus or link of the applicant-Vivek with the organized crime syndicate.

21. I must also take guidance from the decision of the Hon'ble Supreme Court in **Abhishek vs. State of Maharashtra and Ors.** (supra). Paragraphs 31 to 35 are relevant which read thus:-

> "31. Applying these principles, it can be seen that the existing legal framework i.e. the penal and procedural laws and the adjudicatory system were found to be inadequate to curb or control the menace of organised crime. It was found that the organised crime had become a serious threat to the society beyond national boundaries and is fuelled by the illegal wealth achieved by contract, killing, extortion, smuggling in contrabands, illegal trade in narcotics, kidnapping for ransom, collection of protection money and money laundering etc. It was found that the illegal wealth and black money generated by the organised crime being very huge, it had serious adverse effect on the economy. It was further seen that the organised criminal syndicates made a common cause with terrorist gangs and foster narco terrorism which extend beyond the national boundaries. It was further found that the organised criminals have been making extensive use of wire and oral communications in their criminal activities. In this background, it was found necessary to enact a special law with stringent and deterrent provisions including in certain circumstances power to intercept wire, electronic or oral

communication to control the menace of the organised crime.

32. The Preface would show that it was also found that the criminal activities like murders of tycoons related to film industry as well by builders, extortion of money from businessmen, abduction etc. showed that criminal gangs are active in the State. It can, thus, be seen that it was hoped that with the passing of this law, unlawful elements spreading terrorism in the society can be controlled to a great extent and it will go a long way in minimizing the feeling of fear spread in the society.

33. It is pertinent to note that in both Statement of Objects and Reasons and the Preface, though certain activities have been mentioned the same are followed by the term “etc”. It is, thus, clear that the activities mentioned in the Statement of Objects and Reasons and the Preface are only illustrative in nature and not exhaustive. It is, thus, clear that the legislative intent is not only to curb only the activities mentioned in the Statement of Objects and Reasons or Preface but to curb various other activities of the organised crime syndicate so that unlawful elements spreading terrorism in the society can be controlled to a great extent, with an intention that the feeling of fear spread in the society is minimised.

34. It can, thus, clearly be seen that the purpose behind enacting the MCOCA was to curb the activities of the organised crime syndicates or gangs. The

> perusal of the Preamble and the Statement of Objects and Reasons and Preface, in our considered view, does not lead to any narrower meaning that MCOCA has been enacted only for the purpose of curbing activities which involve pecuniary gains or undue economic advantages. The mischief which is sought to be cured by enactment of MCOCA is to curb and control menace of organised crime. The law has been enacted with the hope that the elements spread by the organised crime in the Society can be controlled to a great extent and for minimizing the fear spread in the society. If a narrower meaning as sought to be placed is accepted, it will frustrate the object rather than curing the mischief for which the Act has been enacted.
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> 35. For appreciating this issue, it would also be relevant to refer to sub-section (4) of section 3 of MCOCA. It can be seen that the said provision also provides for punishment only by virtue of a person being a member of the organised crime syndicate. If the contention advanced by the respondents is to be accepted, sub- section (4) of section 3 will be rendered redundant. We are also of the considered view that there could be various “unlawful continuing activities” by a member of “organised crime syndicate” or by any person on behalf of such a syndicate which can be for the advantages other than economic or pecuniary...”

Their Lordships, then in paragraph 17.1 observed that “the threshold requirement in terms of clause (d) of MCOCA is that of the activity/activities undertaken by the accused persons either singly or jointly, as a member of an organized crime syndicate, which involves a cognizable offence punishable with imprisonment of 3 years or more and in respect of which, more than one charge-sheets have been filed before the competent Court within 10 years and cognizance had been taken.”

22. In my opinion, the decision of the Hon’ble Supreme Court in the case of **Prasad Shrikant Purohit** (supra) can be of no assistance to the applicant as it turns on a fact situation (paragraph 82) where Their Lordships observed in those facts it could not be said that in all the three cases the same gang, namely, the 'organized crime syndicate' was involved. In the present case, the accused are involved with the same organized crime syndicate of which Mandar Ajit Borkar is a gang leader.

23. The applicant was arrested on August 24, 2021. Merely because, the present is the only case common between the applicant and the organized crime syndicate is not sufficient for me to take a view that the requirements of applying MCOC Act are not fulfilled in the present case. Considering the activities of the organized crime syndicate brought on record by the prosecution, in my opinion, this is not a fit case to release the applicant on bail.

24. Criminal Bail Application No.868/2022 stands rejected.

25. Interim Application No.3212/2022 is also disposed of.

(M. S. KARNIK, J.)