

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 981 OF 2022

Ravindra Krishna Pujari ... Applicant
Age 46 yrs. Occ : Business
R/A, E/201, Krishna Apt, 2nd Floor, Flat No.10,
Sector-36, Kamothe, Navi Mumbai-410209

V/s.

State of Maharashtra ... Respondent
(At the instance of Anti Extortion Cell, Mumbai,
C.R.No. 195/19)

.....
Mr. Tabish Mooman i/b. Mr. A.B.Sharma, Advocate for Applicant.
Mr. A. A. Palkar, APP for Respondent-State.

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CORAM : G. A. SANAP, J.

DATE : 26th OCTOBER, 2023

P C:-

1. The Applicant, accused No.1 arrested in Crime No. 195 of 2019 registered with the Anti-Extortion Cell, Mumbai for the offence punishable under Sections 387, 120-B read with 34 of the Indian Penal Code, 1860 (for short "IPC") and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act (for short "MCOC Act") has made this application for bail under Section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.PC.").

2. Learned Advocate for accused No.1 submitted that accused has been in jail for last four years. Learned Advocate pointed out that the Special Court has not even framed the charges against the accused. It is pointed out that the progress of the trial in near future is uncertain and therefore further incarceration of the accused is not warranted.

Learned Advocate relying upon two judgments viz:

- (i) *Sachin Damodar Ekhatpure V/s. State of Maharashtra*
(2023 ALL MR (Cri) 2105)
- (ii) *Union of India V/s. K. A. Najeeb*
(2021) 3 SCC 713,

submitted that his further incarceration would violate his constitutional right. Learned Advocate submitted that save and except the so called confessional statement of accused No.1, there is no evidence against the accused to establish his complicity in the commission of crime. Learned Advocate submitted that confessional statement of the accused No.1 relied upon the prosecution could not be said to be voluntary and admissible against the accused in as much as the officer who recorded the said confession has not followed by the mandatory provisions of Section 18 of the MCOC Act. Learned Advocate submitted that learned Special Judge has not properly appreciated the material on record and has rejected the bail application. Learned Advocate

took me through the record and pointed out that the role attributed to accused No.1 is that he has provided some details of the persons for the purpose of ransom. Learned Advocate submitted that on this account the provisions of MCOC Act could not have been invoked against the accused. Learned Advocate submitted that accused is ready to abide by the conditions that may be imposed by the Court.

3. Learned APP submitted that apart from the confessional statement made by the accused, admitting his complicity and the involvement in the crime, there is other corroborative evidence. Learned APP took me through the statement of witnesses recorded before the learned Metropolitan Magistrate and the call detail record of the accused No.1 and submitted that the complicity of the accused in this crime has been *prima facie* established. Learned APP submitted that accused No.1 on the instructions of accused No.2 identified the persons and provided their phone numbers and other details to accused No.2. Learned APP submitted that accused No.1 in conspiracy with accused No.2 has committed the offences under the MCOC Act. Learned APP submitted that the learned Special Judge has taken into consideration all these aspects and has recorded the cogent reasons while rejecting the bail application.

4. It is the case of the prosecution that accused Nos. 1 and 2 hatched the conspiracy to commit the offences. The accused No.1 was the main culprit who had supplied the information about the victims to the gang leader and in turn the gang leader made the phone calls and demanded the ransom from the victims. It is the case of the prosecution that without the involvement of accused No.1, the crime could not have been committed and taken to the logical conclusion.

5. The confessional statement of the accused recorded by the Competent Officer in terms of Section 18 of the MCOC Act is admissible against the accused as well as against the co-accused. Section 18 of the MCOC Act, is a code in itself which provides for all the relevant aspects including the procedure to be followed by the Competent Officer. It is apparent that the confessional statement proved by the prosecution to be voluntary and truthful can be used against the maker as well as against the co-accused. At this stage, the submission advanced by the learned Advocate for the accused that in the absence of any corroborative piece of evidence much emphasis cannot be laid on this piece of evidence cannot be accepted. The law does not mandate that the voluntary and truthful confession cannot be acted upon without corroboration. In my view, this submission cannot be accepted for one more reason. Learned

APP pointed out that the statements of the independent witnesses recorded by the Investigating Officer, compiled, charge-sheet, clearly indicate the role played by accused No.1. It is also stated that the prosecution is heavily relying upon the call record details of the accused No.1. The transcript of the conversation took place between accused No.1 and the gang leader is part of record. This is very relevant material.

6. It is apparent on perusal of the record that the Applicant was involved in supplying the information to the gang leader of the victims. The accused No.1 in his confessional statement has thrown sufficient light on these aspects. The incriminating material recovered pursuant to the disclosure statement made by accused No.1 is another important aspect. The accused No.1 in his confessional statement has categorically stated that his financial position was dwindling and, therefore, he conspired with accused No.2 i.e. gang leader to indulge in the commission of crime. It is seen that the victims in this case were mostly hotel owners. The details of the same have been supplied in the charge-sheet. At this stage, therefore, the submission advanced by the learned Advocate that the accused No.1 did not get any pecuniary benefit cannot be accepted. The accused No.2 and the present applicant i.e. accused No.1 have indulged in commission of serious crime. The victims /

targeted persons are the hotel owners from whom the ransom was collected. The prosecution is relying upon the evidence of the targeted victims as well as other vital evidence. Considering the serious nature of crime and the venerability of the witnesses, I fully agree with the submissions made by learned APP that in case of release of accused on bail he would pose serious danger to the prosecution witnesses.

7. The decisions relied upon by the learned Advocate (*supra*) needs to be considered in the teeth of the facts on record. It is true that speedy trial is the right of the accused. The accused as can be seen from the record have not made efforts before the learned Special Judge to expedite the hearing of the trial. It is also not the case of the accused that the learned Special Judge for some reason or the other is reluctant to conduct the trial. Learned APP pointed out that after framing the charges the prosecution would lead evidence and complete the trial as early as possible. In the facts and circumstances, therefore, the decisions relied on by learned Advocate for the Applicant are not applicable to this case. In the facts and circumstances, I am of the opinion that this is not a fit case to enlarge him on bail. The apprehension put-forth by the prosecution is well founded.

8. Accordingly, Application stands rejected.

(G. A. SANAP, J.)

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KILAJE

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by SONALI
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