



Diksha Rane

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

**BAIL APPLICATION NO.1267/2023**

VINIT RAJENDRA GAIKWAD

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

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Adv. Prashant Pandey a/w. Adv. Dinesh Jadhvani, Adv. Dipsy Sequira, Adv. Ashish Jain, Adv. Irfan Unwalla i/b. W3Legal LLP for the applicant.

Ms. Rutuja Ambekar, APP for the State.  
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**CORAM : M. S. KARNIK, J.**

**DATE : NOVEMBER 1, 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, 504, 506(2), 341, 201 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (hereafter 'the MCOC Act' for short) registered on 15/5/2021 vide C.R. No.273/2021 with Tilak Nagar Police Station.

**3.** So far as the present offence is concerned, there are in all three accused. The applicant is the accused no.3. The accused no.1 Sushant Torane is the gang leader.

**4.** The date of the incident is 15/5/2021. It is alleged that three accused assaulted the first informant. The gang leader assaulted the first informant with an iron rod. The present applicant assaulted the first informant with a steel chair which was lying near by. It is alleged that the assault was on the head.

**5.** I have gone through the injury certificate which reveals that the injuries suffered by the first informant are simple in nature.

**6.** Learned APP invited my attention to the detailed affidavit-in-reply filed on behalf of the respondent-State affirmed by Mr. Sanjay D. Dahake, Assistant Commissioner of Police, Deonar Division, Mumbai. The same is taken on record. There are eleven offences registered against the gang leader with Tilak Nagar police station including the present offence. So far as the present applicant is concerned, there is one offence registered against him bearing C.R. No. 25/2021 for the offence punishable under

Sections 326, 323, 504 read with 34 of the IPC in which the applicant has been enlarged on bail. Thus, C.R. No.25/2021 registered against the present applicant is an individual offence and has nothing to do with the activities of the crime syndicate. So far as the present offence is concerned, the same is the only offence which is in common with the gang leader.

7. Learned counsel for the applicant relied upon the decision of the Hon'ble Supreme Court in the case of **Mohamad Iliyas Mohamad Bilal Kapadiya v/s. The State of Gujarat**<sup>1</sup> to contend that so far as the present applicant is concerned, the present offence being the only offence in common with the gang leader, it cannot be said that activity has been undertaken by the applicant as a member of organized crime syndicate. It is the submission of learned counsel for the applicant that the applicant is a student of Dr. Ambedkar College of Commerce & Economics, People's Education Society, Mumbai and therefore, the applicant be permitted to reside in Mumbai if he is enlarged on bail.

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1 Petition for SLP (Crl.) No.1815/2022, order dtd. 30/5/2022.

**8.** The applicant was arrested on 15/6/2021 and is in custody for more than thirty months with no possibility of the trial concluding any time soon. The applicant is 21 years of age and is a college going student. Though the provisions of the MCOC Act are invoked, considering the role of the applicant in the present offence, the nature of injuries inflicted, the fact that the present offence is the only offence in common with the gang leader and considering that the applicant is in custody for thirty months as an undertrial, I am satisfied that the applicant deserves to be enlarged on bail by imposing stringent conditions.

**9.** The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. In the facts of the present case, considering the nature of the accusations, it is necessary to impose the stringent conditions. Hence, the following order :-

**ORDER**

(a) The application is allowed.

(b) The applicant- Vinit Rajendra Gaikwad in connection with C.R. No.273/2021 registered with Tilak Nagar Police Station, shall be released on bail on his furnishing P.R. Bond

of Rs.50,000/- with one or more sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Tilak Nagar police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till the trial concludes.

(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) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the Mumbai/Mumbai Suburban District after being released on bail, till the trial concludes.

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

(h) The applicant shall surrender his passport, if any, to the investigating officer.

(i) It is open for the applicant to file appropriate application before the trial Court to attend examinations which shall be considered on its own merits.

**10.** The application is disposed of.

**(M. S. KARNIK, J.)**