

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

BAIL APPLICATION NO. 1144 OF 2023

Amol Vijay Deshmukh	...Applicant
vs.	
The State of Maharashtra	...Respondent

**ALONGWITH
BAIL APPLICATION NO. 1145 OF 2023**

Samadhan Vinayak Ovhal	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Shailesh Chavan i/by Mr. Rohan Hogle - Advocate for the
Applicant in BA 1144 of 2023

Mr. Shailesh Chavan i/by Shrikant Panhale - Advocate for the
Applicant in BA 1145 of 2023.

Mr. H. J. Dedhia – APP for Respondent-State
PSI – C. S. Mote – Satara City Police Station.

CORAM : S. M. MODAK, J.

DATE : 11th JULY, 2023

P. C. :-

1. Heard learned Advocate Shri Shailesh Chavan for both
the Applicants and learned APP. Officer from concerned Police
Station is present.

2. Both of them are asking for bail in connection with Crime
bearing C.R. No. 96 of 2018 registered with Satara City Police

Station on 03/02/2018. The complaint was lodged by mother of the victim/son-Azim by name Alfaj Salimkhan Pathan. At that time, the said Azim holds the truck. He was doing business of supplying sand. RTO department fines him. He was not having sufficient funds. He has borrowed amount and pledged that truck with co-accused Khandu Dharashivkar. He is gang leader. It was in the year 2014. So far as arrears of money is concerned there are two rival claims. The first informant through her son claimed that entire arrears are paid. Whereas gang leader Khandu Dharashivkar claimed that still there are arrears.

3. The incident took place on 02/12/2014. The gang leader Khandu Dharashivkar called Azim to pay Rs. 60,000/-. He was asked to bring truck also. When he brought the truck gang leader Khandu Dharashivkar introduced co-accused Ajit Kurane, Amol Deshmukh and Samadhan (who are present two Applicants) and one Lala Pandit. When gang leader Khandu Dharashivkar insisted for repaying Rs. 60,000/-, on the instigation of said Khandu Dharashivkar, the truck was forcibly taken over, the present Applicant-Amol abused Azim in filthy language. The incident is not reported immediately to the Police station. It was not reported till

January, 2018.

4. When there were offences registered against gang leader Khandu Dharashivkar in the year 2016, the first informant gained courage and she has come forward and lodged the complaint. In addition to this, there is one more incident of forcibly taking away the truck. It belongs to one Manoj Pawar. Similar modus operandi used by the gang leader. There also money is advanced and on account of arrears, it was forcibly taken away. Initially, the offence was registered under Sections 395, 341, 509, 504, 506 read with 34 of the Indian Penal Code. Thereafter, provisions of the Maharashtra Control of Organized Crime Act were invoked.

5. The Applicant-Amol was initially granted anticipatory bail. After invocation of the Maharashtra Control of Organized Crime Act, it was cancelled in the year 2019. For two years, the Applicant-Amol has evaded the arrest. Finally, he was arrested in February, 2021. Whereas Applicant-Samadhan came to be arrested on 05/04/2018. Since then he is behind bar.

6. I have gone through the affidavits filed in both the applications. Against Applicant-Samadhan, there are three offences. C. R. No. 96 of 2018 is present offence. Other two offences are

registered earlier to this 2018. Except the present offence, the Applicant-Samadhan is not charge-sheeted alongwith gang leader.

7. Whereas against the Applicant-Amol there are in all eight other offences mentioned in para no. 7 of the affidavit filed against him alongwith members of crime syndicate and there are other four individual offence and one of them is present offence (para no. 5).

8. Learned APP invited my attention to the role alleged against the present Applicants. Whereas according to Mr. Chavan this Court has already granted bail to the gang leader Pramod @ Khandya Dharashivkar in Bail Application No. 722 of 2023 and the trial Court has granted bail to co-accused Ajit @ Vakil @ Kubdya Ashok on 30/06/2023. Learned APP invited my attention to the observations of the trial Court in para no. 7 of the said order. While granting bail Trial Court has recorded that three witnesses have turned hostile.

Case against applicant Samadhan.

9. So far as Applicant-Samadhan is concerned allegation against him is that he accompanied the gang leader-Khandu on 02/12/2014, at that time when Azim brought the truck except that there is no allegation. It is true that except present offence alongwith

gang leader, there are two offences but they are not alongwith members of crime syndicate.

10. So far as Applicant-Samadhan is concerned, there is only allegation that he accompanied main accused-Pramod @Khandya Dharashivkar on the date of incident except that there is no allegation. He is not charge-sheeted jointly in other cases alongwith gang leader Pramod @Khandya Dharashivkar. Except that there is no material to pointed out as he is member of the Organized Crime Syndicate. So against him bar under Section 21 is lifted. I am also inclined to grant him bail.

Case against applicant Amol

11. The gang leader- Pramod @Khandya Dharashivkar is granted bail by this Court only on account of delay in conducting the trial. It is true that this Applicant-Amol is recently arrested on 11/02/2021, so he cannot claim bail on account of delay in trial. There are offences registered against him alongwith gang leader and this is relied upon to show that he is member of crime syndicate.

12. Mr. Chavan relied upon the observations in case of Mangesh Manik Kanchan V/s. The State of Maharashtra, decided by this Court on 13/07/2015 and observations in case of Sagar

Pandurang Bhilare V/s. The State of Maharashtra decided by this Court on 20/01/2022. His contention is that the F.I.R. is lodged after gap of three years. His contention is that the provisions of the Maharashtra Control of Organized Crime Act are wrongly invoked.

13. It is true that joint charge-sheet is one of the circumstance to prove organized crime syndicate. In this case I am not inclined to accept it at prima facie stage. I restrained myself to make any other observations, as trial is going on. The trial Court will decide whether the provisions of the Maharashtra Control of Organized Crime Act are properly invoked against this Applicant on the basis of the joint charge-sheet with the gang leader.

14. It is true that even though incident took place on 02/12/2014, the F.I.R. came to be lodged on 03/02/2018. It is true that there is allegation that Applicant-Amol abused the son and took away truck forcibly. However, no material is pointed out to me what has happened about this truck. So contention of the Applicant can be accepted at the prima-facie stage. So I am inclined to grant him bail considering the delay in lodging the F.I.R. and no corroborating material in the form of the recovery of that truck. For that purpose I hold that bar under Section 21 of the said Act be

lifted.

15. Hence the Order:-

ORDER

- (i) Bail applications are allowed.
- (ii) Applicant-Amol Vijay Deshmukh and Applicant-Samadhan Vinayak Ovhall arrested in connection with C.R. No. 96 of 2018 registered with Satara City Police Station for the offence punishable under Sections 395, 341, 509, 504, 506 of Indian Penal Code and Section 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act and under Sections 39, 45 of the Maharashtra Money Lending Act, be released on bail on furnishing Personal bond and surety bond in sum of Rs. 50,000/- each.
- (iii) Applicants are directed to give attendance to the Satara City Police Station on Monday and Thursday from 10.00 a.m. to 12.00 noon until completion of the trial.
- (iv) Applicants shall not threaten the prosecution witnesses.
- (vi) The Applicants to furnish local surety having residence within territory limits of Satara Revenue District.
- (vii) Needless to say, violating of the condition above will make the Applicants liable for cancellation of bail

after notice.

16. It is made clear that the these are my *prima facie* observations.

17. Both bail applications are disposed of in the aforesaid terms.

18. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]