



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 616 OF 2023**

Sanket Kailas Dhainje

...Appellant

Versus

State of Maharashtra

...Respondent

The Senior Police Inspector

Shivajinagar Police Station, Pune

Mr. Nikhil Wadikar a/w. Mr. Malhar Pawar i/b. Mr. Nandu Pawar for
the Appellant.

Ms. S. S. Kaushik, APP for the State.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**

DATE : 26th SEPTEMBER 2023

P. C. :

1. Heard learned counsel for the parties.
2. By this appeal, the appellant seeks his enlargement on bail in connection with C.R. No. 102 of 2022 registered with the Shivaji Nagar Police Station, Pune for the alleged offences

punishable under Sections 384, 385, 386, 387 read with Section 34 of the IPC; Sections 3 and 25 of the Arms Act; 37(1) read with Section 135 of the Maharashtra Police Act; and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crimes Act, 1999 (“**MCOC Act**”)

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in the said case only on an allegation that he introduced his brother-in-law – Rohit Akhade to the complainant – Ram Shankar Jadhav. He submits that a perusal of the FIR as well as the chargesheet would show that apart from the same, there is no material to connect the appellant with the alleged offences. He submits that the appellant has no antecedents. He further submits that although there is an alleged recovery of Bajaj Pulsar Motorcycle at the instance of the appellant, it is pertinent to note, that it is the prosecution case, that the said motor cycle was purchased by his brother-in-law-Rohit from the extortion monies, and as such, the same would not prima facie point to the complicity of the appellant in the crime, in the absence of any other evidence.

4. Learned APP opposes the grant of bail. She however does not dispute the fact, that apart from introduction of Rohit Akhade to the complainant– Ram Shankar Jadhav and his brother, and recovery of Bajaj Pulsar Motor Cycle, there is no other material to connect the appellant with the alleged offences. She also does not dispute the fact that the appellant has no antecedents.

5. Perused the papers. According to the complainant – Ram Shankar Jadhav he is engaged in the business of real estate along with his brother, having a firm by the name of “Ashoka Group”. It is alleged by the complainant that the said firm deals with the purchase and sale of land. The complainant has alleged that he knew the appellant since 2014 and that on 31st May 2022 the appellant called Lakhan – complainant’s brother and told him that he wanted to introduce him to his brother-in-law - Rohit.

6. According to the prosecution, thereafter Rohit and Akash extorted monies from the complainant. As far as the appellant is concerned, except for introducing co-accused Rohit to the

complainant and his brother, no other role is assigned to him in the commission of the offence of extortion. Nor is the appellant alleged to be involved in the incident that took place pursuant to the extortion. No monies were admittedly paid to the appellant.

7. It appears that there is recovery of Bajaj Pulsar Motor Cycle at the instance of the appellant. The said motor cycle is alleged to have been purchased out of the extorted money by the co-accused Rohit and stands in the name of Rohit.

8. Considering the evidence on record, the bar of section 21(4) of the MCOC Act will not apply. From the evidence on record it is difficult to come to the conclusion, that there are reasonable grounds for believing that the appellant is guilty of the offence.

9. Considering the aforesaid, the appeal is allowed and the impugned order passed by the Special Judge under the MCOC Act and Additional Sessions Judge, Pune in Spl.(MCOC) Case No. 856 of 2022 dated 16th March 2023 rejecting the appellants application for bail is quashed and set aside and the appellant is

enlarged on bail, on the following terms and conditions :

ORDER

- (i) The Appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- (ii) The Appellant shall attend the concerned Police Station, on the first Saturday of every month between 10.00 am to 12.00 noon, till the conclusion of the trial, unless the date coincides with the trial Court date;
- (iii) The Appellant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;
- (iv) The Appellant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted;

(v) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the appellant in the Registry of the trial Court, within two weeks of his release;

(vi) If there are 2 consecutive defaults either in attending the Police Station or if the appellant fails to appear before the trial Court or there is breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of appellants' bail.

(vii) Appeal is allowed in the aforesaid terms and accordingly disposed of.

10. It is made clear, that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.