

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.1500 OF 2023

Jagruti Dhanesh Thorat	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Ghanshyam Upadhyay with Mr. Vijay Jha i/by Law
Juris for the applicant.

Ms. Rutuja Ambekar, APP for the respondent/State.

Mr. Mahesh Mule, SPP with Ms. Nidhi Narwekar for the
State/respondent.

CORAM : AMIT BORKAR, J.

DATED : JULY 5, 2023

P.C.:

1. Apprehending arrest in connection with F.I.R. No.159 of 2022 registered with Nhava Sheva Police Station for the offences punishable under sections 364A, 387, 120B, 342, 323, 109, 506 read with section 34 of the Indian Penal Code, 1860, and sections 3 and 25 of the Indian Arms Act, 1959, and section 3(1)(II), 3(2), 3(4), 3(5) of the Maharashtra Control of Organized Crime Act, 1999, the applicant is seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. According to the prosecution, gang leader Vikrant Deshmukh along with other members of the gang forcefully took possession of quarry business of the informant and sold extracted stones of lakhs

of rupees. They also extorted various amounts from the informant. There are allegations of kidnapping by the gang of the informant. The first information report was registered on 4th October 2022. However, during the course of investigation, the accused persons were charged with provisions of the Maharashtra Control of Organized Crime Act, 1999 .

3. The applicant filed anticipatory bail application before the learned Sessions Judge under section 438 of the Criminal Procedure Code, 1973, which came to be rejected by order dated 12th May 2023. The Sessions Judge rejected the application relying on judgment of Single Judge of this Court in the case of **Chandrakant Vishnu Sawant And Anr. vs. State of Maharashtra** reported in 2018 SCC OnLine Bom 17673. Aggrieved thereby, the applicant has filed present anticipatory bail application.

4. Learned advocate for the applicant relying on Division Bench judgment of this Court in Criminal Writ Petition No.1959 of 2021 dated 13th August 2021, submitted that this court has granted relief to the petitioner therein by observing that there was no material available with the prosecution to prima facie satisfy invocation of provisions of the Maharashtra Control of Organized Crime Act, 1999.

5. I have heard learned advocate for the applicant and learned APP for the State. On perusal of the material on record, it appears that the gang of which the applicant is alleged to be member has allegedly took possession of stone quarry business of the informant. The gang members sold extracted stones from the said

quarry and deposited amounts received from the sale of extracted stones in the partnership firm bearing name Jagruti Enterprises. It is not in dispute that the applicant is partner in Jagruti Enterprises. Since proceeds of crime committed by gang are prima facie received by the applicant's partnership firm, there is prima facie case made out for applicability of provisions of the Act. Bar under section 21(3) of the Maharashtra Control of Organized Crime Act, 1999 is attracted. Therefore, the present anticipatory bail application is not maintainable.

6. In so far as the facts in Criminal Writ Petition No.1959 of 2021 are concerned, the Division Bench recorded prima facie satisfaction that there is absence of material which establishes nexus between the petitioner and organized crime syndicate. Therefore, while exercising writ jurisdiction, this Court granted relief under section 438 of the Criminal Procedure Code, 1973. Therefore, said judgment is of no help to the applicant. I am, therefore, prima facie opinion that prima facie case for invocation of provisions of the Maharashtra Control of Organized Crime Act, 1999, qua the applicant is made out.

7. The anticipatory bail application is, therefore, stands rejected.

(AMIT BORKAR, J.)