

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

BAIL APPLICATION NO. 1175 OF 2020

Biswanth Kushwadhvaj Bera	 Applicant
v/s.	
The State of Maharashtra and anr.	 Respondents

Mr. Keshav Chavan i/b. Mr. Ujjwal Gandhi for the Applicant.
Mr. S.V. Gavand, APP for the State.
Mr. Dilip Kamble, PSI, Kherwadi Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 16th JUNE, 2023.

P. C. :-

1. This is an Application under section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in MCOC Special Case No.557/2020 pending on the file of Sessions Court, Mumbai. The aforesaid case arises from C.R.No.252/2019 registered with Kherwadi Police Station, Mumbai for offences punishable under sections 392, 411 r/w. 34 of the Indian Penal Code and sections 3(1)(ii), 3(2), 3(4) and 3(5) of Maharashtra Control of Organized Crime (MCOC) Act, 1999.

2. Heard learned counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The FIR lodged by Jyoti Sakpal prima facie reveals that on 08/12/2019, while she was traveling by Borivali Taxi No.MH-02-BQ-4314, two unknown persons came on a motorcycle and snatched her gold mangalsutra. On 09/01/2020, the Applicant and the co-accused came to be arrested. Motor cycle used in commission of the said crime was attached. It was revealed that the Applicant herein who is the accused no.3, had allegedly received stolen gold ornaments from the co-accused who is stated to be a gang leader. Hence, the provisions of MCOC came to be invoked.

4. The Applicant was not involved in snatching the gold ornaments. There is no prima facie material to show that he is a member of crime syndicate or that he has indulged in unlawful activity either individually or jointly with the other members of the crime syndicate. It is also not in dispute that the charge sheets which have been filed against the Applicant are subsequent to the commission of the crime. There is no prima facie material as against this Applicant to show that he is a member of organized crime syndicate. The only material against the Applicant is that he had received gold ornaments from the co-accused. Hence, the only offence made out against the Applicant is for offence punishable under section 411 of IPC for imprisonment which may extend to three years.

5. Considering the above facts and circumstances, the Applicant is entitled for bail. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is facing trial in MCOC Special Case No.557/2020 pending on the file of Sessions Court, Mumbai, arising out of C.R.No.252/2019 registered with Kherwadi Police Station, Mumbai, is ordered to be released on cash bail in the sum of Rs.30,000/- for a period of four weeks ;
- (ii) The Applicant shall, within the said period of four weeks, furnish P.R. bonds in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;
- (iii) The Applicant shall report to Kherwadi Police Station once in two months on every 1st Monday between 11.00 a.m. to 02.00 p.m. until further orders ;
- (iv) The Applicant shall not interfere with the prosecution witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

6. Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)