

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

CRIMINAL BAIL APPLICATION NO.3010 OF 2021

Sagar Ambadas Chavan Applicant

versus

State of Maharashtra Respondent

.....

- Mr. Piyush Toshnival a/w Amit Icham i/b. Vivek N. Arote, Advocate for Applicant.
- Smt. Anamika Malhotra, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th APRIL, 2023

P.C. :

1. This is the second bail application preferred by the Applicant. Earlier he had approached this Court vide Criminal Bail Application No.889 of 2020. That application was withdrawn after arguing for some time. The said order was passed on 18/02/2021. Thereafter, a co-accused Sachin Gejage was granted bail by the Hon'ble Supreme Court on 29/08/2022. After that, another co-accused Mangesh Chavan was granted bail by the co-ordinate Bench of this Court vide the order passed

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in Criminal Bail Application No.1344 of 2022 on 24/01/2023. Therefore, in the changed circumstances, the Applicant has preferred this application for his release on bail on the ground of parity.

2. The Applicant is seeking his release on bail in connection with C.R.No.296/2019, dated 28/03/2019, registered with Yawat Police Station, Pune, under sections 395, 365, 347, 413 of the Indian Penal Code. Provisions of section 3(1)(ii), 3(4) of the MCOC Act were added during investigation.
3. Heard Mr. Piyush Toshnival, learned counsel for the Applicant and Smt. Anamika Malhotra, learned APP for the State.
4. The prosecution case is that, on 26/03/2019, within the jurisdiction of Yawat police station, the first informant was driving his truck at around 09.30 p.m. He was carrying 31 tons of wheat. It was carried from Rajasthan to Goa. The first informant was accompanied by the other driver Nandlal Thakur.

At that time their truck was intercepted by a Wagon R car. Three unknown persons climbed in the truck. The informant was forced to sit aside. The other driver was also forced to sit quietly. Their mobile phones were removed. The truck was driven towards Supe. After some time, both of them i.e. the first informant and Nandlal were asked to get down. Thereafter the truck was taken ahead. The prosecution case is that, the accused sold the wheat to one Indrajeet Gandhi and Amit Gandhi. The Applicant was arrested on 01/04/2019 and since then he is in custody.

5. Learned counsel for the Applicant submitted that, about four years have passed since his arrest and there is no progress in the trial. The co-accused who is similarly placed, is already released on bail. The co-accused who has allegedly played major role i.e. Mangesh Chavan is also granted bail. Therefore the Applicant deserves to be released on bail on the ground of parity.

6. Learned APP submitted that the Applicant was identified by the first informant Ramprasad Rathod as well as by the other eyewitness Nandlal Thakur. There is a confessional statement of the Applicant recorded u/s 18 of the MCOCA and there is material against the present Applicant. However, she conceded that the Applicant's role is similar to that of Sachin Gejage who was also identified in the Test Identification Parade by the same witnesses. Therefore, to that extent there is no difference in the case of the Applicant and that of the co-accused Sachin.

7. I have considered these submissions. Since Sachin Gejage is already released on bail, parity applies in favour of the Applicant. Besides Sachin Gejage even Mangesh Chavan was subsequently granted bail.

8. Considering all these aspects, it does appear that the principles of parity applies to the Applicant. It is important to note that for about four years, the trial has not been commenced

and obviously it will take a long time to conclude. Considering this ground of delayed trial also the Applicant deserves to be released on bail.

9. Considering both these factors, I am inclined to grant bail the Applicant.

10. Hence, the following order :

ORDER

- (i) In connection with C.R. No.296/2019 registered with Yawat Police Station, Pune, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)