



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

BAIL APPLICATION NO. 2243 OF 2023

VITTHAL ANIL JADHAV

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Aditya Parmar a/w Adv. Ruchita Rajpurohit i/b Adv.
Sana Raees Khan for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 07, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 395, 120-B of the Indian Penal Code and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act) registered on 02/02/2016 vide C.R. No.40 of 2016 with Khadak Police Station.
- 3.** The applicant was arrested on 04/02/2016 and is now in custody for more than 7 years and 8 months as an

undertrial. The applicant is accused No.4. It is the applicant's role that he used to inform the other co-accused about the money whenever it was sent by the courier. An affidavit in reply has been filed on behalf of the respondent-State affirmed by Ashok Dhumal, Assistant Commissioner of Police, Faraskhana Division, Pune.

4. Learned APP opposed the application and submitted that the present applicant is involved in the organised crime syndicate singly or jointly committed cognizable offences such as attempt to murder, robbery, attempt to robbery with deadly weapons, day and night house-breaking theft etc. My attention is invited to the order dated passed on 12/12/2022 in Bail Application No. 393 of 2022 while enlarging the co-accused Sachin Dnyanadev Jadhav on bail. The order reads thus:

" This is an application under Section 439 of the Code of Criminal Procedure.

2. The applicant came to be arrested in Crime No. 40 of 2016 registered at Khadak police station for the offences punishable under Sections 395, 120-B of the Indian Penal Code and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999.

3. I have heard the learned counsel for the

applicant and the learned APP for the respondent-State.

4. The applicant is in jail for more than 7 years. There are no other criminal antecedents. The learned Counsel for the applicant has placed on record copy of the order dated 19 July 2022 passed by this Court in Bail Application No.186 of 2022. By the said order, this Court has released the co-accused in the present crime on bail by observing that, he has suffered incarceration for 6 years and still there is no progress in the trial. Considering the facts and circumstances, I am inclined to release the applicant on bail. Hence, the following order is passed:

(i) Application is allowed.

(ii) The applicant shall be released on bail in Crime No. 40 of 2016 registered at Khadak police station for the offences punishable under Sections 395, 120-B of the Indian Penal Code and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 on executing PR bond in the sum of Rs. 2,00,000/- with one or two sureties in the like amount.

(iii) The applicant shall attend the concerned police station once in a month that is on first Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of the trial."

5. On the ground of long incarceration and parity with the co-accused Sachin who has been enlarged on bail and in the facts and circumstances of the present case, even the applicant can be enlarged on bail. So far as the trial is concerned, though the charge is framed as far back as on 27/12/2019 none of the witnesses are examined. The trial

is likely to take a long time to conclude. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the applicant. So far as the present applicant is concerned, the present offence is the only offence common with the gang leader. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Vitthal Anil Jadhav in connection with C.R. No.40 of 2016 registered with Khadak Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 1,00,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Khadak police station once in a month every first Sunday of the month between 11.00 a.m. and 2.00 p.m.
- (e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police

Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport, if any, to the investigating officer.

6. The application is disposed of.

(M. S. KARNIK, J.)