



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

CRIMINAL APPEAL NO. 905 OF 2023

State of Maharashtra

...Appellant

Versus

Gazi Dara Irani @ Sayyad @ Jafri

...Respondent

Mr. K. V. Saste APP for the appellant-State

Mr. Niranjana S. Mundargi appointed advocate for respondent

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

DATE : 20th SEPTEMBER 2023

P.C. :

1. Heard.

2. By this appeal, the appellant-State of Maharashtra has impugned the order dated 18th July 2023 passed by the learned Special Judge (M.C.O.C. Act), Thane below remand report dated 18th July 2023 in CR No. 519 of 2022 registered with the Mahatma Phule Chowk Police Station, Kalyan, by which the learned Special Judge was pleased to reject the remand application preferred by the police seeking police

custody of the respondent.

3. Perused the papers. It appears that there are four cases registered as against the respondent, i.e. CR No. 21 of 2016 registered with Manpada Police Station for the alleged offences punishable under sections, 392, 506(2), 34 of the Indian Penal Code and Sections 3(1) (ii) 3(2) and 3(4) of Maharashtra Control of Organised Crime Act. ('MCOC' Act) It appears that MCOC Act was invoked against the respondent in view of the cases registered against him prior thereto.

4. It appears that during the Covid period, the respondent absconded from custody, pursuant to which, CR No. 118 of 2021 was registered as against the respondent with Kongaon, Bhiwandi Police Station for the alleged offences punishable under sections, 224, 118, 269, 271 of the Indian Penal Code; section 11 of Maharashtra Covid-19 Regulation Act, 2020; and sections 2, 3 and 4 of the Epidemic Disease Act, 1897.

5. It appears that in the interregnum, the respondent committed few more offences of chain snatching, pursuant to which 3 CR's were

registered as against the respondent i.e. **CR No. 519 of 2022** with Mahatma Phule Chowk Police Station, Kalyan for the alleged offences under the Indian Penal Code. (It is in this case, that the MCOC Act has been invoked and police custody has been sought); **CR No. 548 of 2022** registered with the Mahatma Phule Chowk Police Station, Kalyan for the alleged offences punishable under sections 394, 34 of the Indian Penal Code as well as provisions of the MCOC Act; and **CR No. 550 of 2022** also registered with the Mahatma Phule Chowk Police Station, Kalyan for the alleged offences punishable under sections 394, 34 of the Indian Penal Code as well as provisions of the MCOC Act.

6. It is pertinent to note that in both CR's i.e. CR No. 548 of 2022 and 550 of 2022, both registered with the Mahatma Phule Chowk Police Station, Kalyan in which MCOC was invoked, the police had sought police custody, which was granted by the Court on production warrant.

7. As far as CR No. 519 of 2022 in which MCOC is invoked, the police filed a remand application seeking police custody, even in the said CR which was rejected by the learned Special Judge vide order dated 18th July 2023. The said order is at page 38 of the appeal. Learned Judge vide the said order has given reasons for refusing to grant police custody remand of the respondent. Learned Judge has noted that there are two crimes in which approval under the MCOC Act is already granted i.e. CR No. 548 of 2022 and CR No. 550 of 2022 and that the third in which the approval is granted is based on the record which was the subject matter in earlier three crimes in which approval under the MCOC was granted. Learned Judge has therefore, having regard to the nature of offences, coupled with approval in earlier two crimes, refused the police custody of the respondent and remanded the respondent to judicial custody. We find no infirmity in the said order.

8. Considering the aforesaid, the appeal stands dismissed.

GAURI GODSE, J.

REVATI MOHITE DERE, J.