

SA Pathan

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

BAIL APPLICATION NO.3352 OF 2022

Akash Balasaheb Shelke & Ors. ... Applicants
V/s.
The State of Maharashtra ... Respondent

Mr.Satyam Joshi i/by Mr. Ashish Vernekar, for the
Applicant.

Ms. Pallavi Dabholkar, APP for State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 8, 2023

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.PC.') in connection with C.R. No.960 of 2021 registered with Chakan police station for offences punishable under Sections 395, 397, 387, 341 of the Indian Penal Code (for short 'IPC'), under Section 3(25), 4(25), 4(27) of the Arms Act, under Section 37(1) r/w 135 of the Maharashtra Police Act, under Section 3, 7 of the Criminal Law Amendment Act and Section 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crimes Act, 1999 (for short 'MCOC Act')

2. The prosecution story is as under:

On 8 August 2021, at 8 pm, the complainant, along with friends, namely Jeevan Madhukar Pawar, Sachin Dnyandev Botre, were walking towards Shivaji market chowk near Bamboli, Khed

Taluka, at that instance they saw Santosh Madhukar Manjare, Sainath Ramnath Raut, Akash Balasaheb Shelke, i.e. the present applicant, Ganesh Baban Dangle, Narayan Sunil Ghavate, Ganesh Hiranman Libhore, Vittal Navnath Pikle, Pradeep Aurn Padwal and Sumit Bhokse with several other unknown persons came on their motorcycles. They unlawfully assembled on the spot, and one Mr Santosh Manjre asked the applicant why he was supporting their rival. According to the prosecution, the accused, Santosh Manjre, extorted the amounts from nearby pan shops and small vendors in sums of Rs.1000/- per month. It is alleged that the complainant used not to let the pan shop owners and vendors pay the money demanded by the accused, on account of which the accused, Santosh Manjre, threatened him that he would kill him if keeps obstructing the extortion business.

3. The accused (Santosh Manjre) took a pistol from his pocket and aimed at the complainant. In fear, he started to run away from the spot; at that instance, the present applicant, Ganesh Baban Dongle, and Narayan Sunil Ghavate, each holding wooden sticks in their hands, tried to kill the complainant. The accused abovementioned assaulted him on his right arms and legs. The complainant's friends, Jeevan Madhukar Pawar and Sachin Dyandev Botre came there to rescue them, whereas the accused (Santosh Manjre) assaulted them with an iron sickle and injured Sachin Botre on his head, arms and face. According to the complainant, the accused, Santosh Manjre, snatched a gold chain worth 40,000/- from Jeevan Pawar. The other accused, Sainath Raut, snatched a gold chain worth Rs.20,000/- from Sachin Botre.

After the incident, all the accused fled toward Pioneer Company Road Bomboli Khed Taluka. The people gathered there witnessed the terror of the accused persons.

4. That complainant further submits that people closed all the shops on the spot. Thereafter Anil Nikhade, Babu Wadekar and Dashrath Pinham took them for medical treatment at Sant Tukaram Hospital, Khalumbre, Tal-Khed Jeevan Pawar, Sachin Botre was shifted to Pavan Hospital Somatne Phata for further treatment. Therefore, the report was lodged with the concerned police station.

5. The present applicant/accused was arrested on 11 August 2021. After completion of the investigation, the charge sheet is filed before the MCOCA Court.

6. The applicant applied under Section 439 of Cr.P.C. seeking bail before learning the Special Court, which came to be rejected by an order dated 19 May 2022.

7. The investigating officer carried out an investigation and, after completion of the investigation, filed a charge sheet against the accused persons, including the applicant.

8. Learned Advocate for the applicant submitted that the applicant is not named in the first information report. The role attributed in the supplementary statement was recorded on the next day of his assault by a wooden stick. There is improvement in the said supplementary statement. The applicant is not connected with co-accused persons. There is no material to connect the applicant to the member of the organized crime syndicate.

9. Per contra, learned APP opposed the contentions raised on behalf of the applicant. It was submitted that the applicant's presence was established based on material available on record. Since the present case is connected with the gang's activities, the applicant's active role in the incident, along with his nexus with the gang, is sufficient for the rejection of his application.

10. Heard learned Advocate for the parties and perused material on record along with a copy of the charge sheet and documents filed therewith. Although the applicant's name does not appear in the First Information Report, it mentioned that the gang leader and his associates assaulted the victim, causing injuries. The victim's statement indicates that the applicant was present along with other accused persons at the spot of the incident. The eyewitnesses stated that the applicant, along with the gang leader, indulged in the activity of extortion from businessmen in that area.

11. The injury certificate indicates injuries caused to the victim, including head injuries. The wooden log has been recovered in pursuance of information given by the applicant under the memorandum of panchnama dated 11 August 2021.

12. The crime chart produced on record indicates the pendency of two offences which are Crime No.1 of 2016 under Sections 143, 147, 148, and 324 of IPC and Crime No.878 of 2017 under Sections 143, 147, 148, 341, 342 of IPC registered against the applicant alleging that he prevented victim and others from carrying out development work in Tata Telecom India Company. The applicant and the co-accused formed an unlawful assembly

and assaulted the informant and others using a stick.

13. Another Crime, No.878 of 2017, is registered against the applicant and one of the gang members, Vittal Navnath Pikle alleging that when the informant went into the company to load the goods in the tempo, the present applicant restrained him and assaulted him.

14. The allegation of commission of offences along with gang members establishes the nexus of the applicant with the gang. The CDR report on record indicates contact between gang members and the applicant. The CDR indicates that the applicant was in touch with other gang members. Therefore, there are reasonable grounds to infer that the accused has committed an offence under the provisions of the MCOC Act.

15. Overall, considering aforesaid factors, the application deserves to be rejected. The bail application is, therefore, rejected. No costs.

(AMIT BORKAR, J.)