

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

BAIL APPLICATION NO. 3070 OF 2022

Arjun Devsingh Sisodia

...Applicant

vs.

The State of Maharashtra

...Respondent

Adv. Neeraj Yadav a/w Deepa Punjani, Adv. Sunayana Dhakkad -
Advocate for the Applicant

Mr. H. J. Dedhia – APP for the State

API P. A. Andhale – Manpada Police Station

CORAM : S. M. MODAK, J.

DATE : 25th APRIL, 2023

P. C. :-

1. Heard learned Advocate Shri Neeraj Yadav for the Applicant and learned APP Shri Dedhia for the Respondent-State. The officer is present.

2. Initially, the present Applicant is shown as an absconding accused in the charge-sheet submitted on 15/07/2022. It was for the offence punishable under Sections 392, 394, 411 read with 34 of the Indian Penal Code. The charge-sheeted accused were one Ramesh Paliwal and second Mahesh Jath. Charge-sheet was filed in respect of offence bearing C.R. No. 163 of 2022. It was on the complaint of one

Manjula Khutarkar. Her golden chain was snatched by persons who came on pulsar motor cycle.

3. In fact this Applicant was called for investigation purpose and his statement is also recorded on 19/05/2022 (page no. 91). He has purchased various Mangalsutras from arrested accused Ramesh. He has stated that he is working with one jeweller Suresh Kothari, as gold delivery person. However he has stated that he has sold those ornaments to one Vivek Kamble and one Gopal Patra.

4. Furthermore, he has produced certain ornaments on 18/05/2022, when Police has visited the shop alongwith two arrested accused persons.

5. The contention is that even though ornaments are recovered from him, he was shown as absconding accused in the charge-sheet. There is contention that there is no point in keeping the Applicant behind bar, even after the provisions of the MCOC Act were invoked, because there are no materials collected which shows that he has purchased those ornaments as a member of organized crime syndicate.

6. It is true that the charge-sheet was filed on 15/07/2022, whereas proposal to invoke the provisions of the MCOC Act was sent

on 07/07/2022 and approval is granted on 14/07/2022. Thereafter, ACP Kurade has taken over the investigation. The Applicant was arrested. Learned APP brought to my notice the averments in the affidavit filed on 08/03/2023. It is true that except this case there are no previous antecedents against this Applicant.

7. The role of this Applicant is described in para no. 4 of that affidavit. The facts stated in that affidavit are as follows:-

- a) 112 gram of gold Ornaments seized as per Panchnama dated 19/05/2022.
- b) 140 gram of gold ornaments were sold by this Applicant to witness Vivek Kamble but in turn he sold it to Mahendra Jain (owner of V Gold jewellery shop and seized from Mr. Mahendra Jain)
- c) 53 grams of gold ornaments were sold by the Applicant to one Gopal Patra who in turn sold it to Vishal Galundia, owner of the Namashkar Jeweller from whom it is seized.
- d) The stolen Mangalsutras were identified by the first informant.

8. It seems that all these materials were seized prior to invocation of the MCOC Act. Charge-sheet is filed for the offence punishable under Sections 392, 394 and 411 read with 34 of the

Indian Penal Code and Sections 3 (1)(ii), 3(2), 3 (4) of the MCOC Act. It is true that there are various offences registered against the other two arrested accused but except this offence the Applicant is not having any criminal antecedent.

9. No doubt, it is not the case of the prosecution that Applicant is involved at the time of committing robberies. His role starts after robberies were committed and when question of encashing those ornaments had arisen.

10. Even though it is true that on several occasions, the Applicant has purchased the ornaments from two arrested accused persons, there are no materials to show that he purchased knowingly that those accused persons have indulged into continuous unlawful activities. Person can be prosecuted as a member of the Organized Crime Syndicate provided there has to be such material. Merely on the basis of purchasing the ornaments on more than one occasions, it is difficult to believe that Applicant is member of the Organized Crime Syndicate.

11. Furthermore, in the charge-sheet there is no indication that the act was outcome of the Organized Crime Syndicate. The Police have not invoked the provisions of the MCOC Act prior to

filing of first charge sheet.

12. For the above reasons, the bar under Section 21 of the MCOC Act will not come into picture. There are no materials to show that he will commit the offence, if he released on bail. So I am inclined to grant him bail. Hence Order :-

ORDER

- (i) Bail application is allowed.
- (ii) Applicant - Arjun Devsingh Sisodia arrested in connection with C.R. No. 163 of 2022 registered with Manpada Police Station, Thane for the offence punishable under Sections 392, 394, 411 read with 34 of the Indian Penal Code and Sections 3 (1)(ii), 3(2), 3 (4) of the MCOC Act, be released on bail on furnishing Personal bond and surety bond in sum of Rs. 50,000/-.
- (iii) Applicant shall not threaten the prosecution witnesses.
- (vi) Applicant to give attendance to Manpada Police Station on every month first Sunday from 10.00 a.m. to 12.00 noon atleast for one year.
- (vii) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail after notice.

13. Application is disposed of in the aforesaid terms.
14. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]