



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 BAIL APPLICATION NO. 809 OF 2024

BHARATKUMAR @ MAXI DHARAMDAS POPTANI
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Jadhav Satej S. a/w Mr. Niraj
Chudiwal i/b Mr. Granthi Manpreet Ajeet Singh.
APP for Respondent-State : Mr. S. M. Ganachari.

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CORAM : S. G. MEHARE, J.
DATE : 24.07.2024

PER COURT :-

1. Heard the learned counsel for the applicant and learned APP for the respondent-State.
2. The applicant seeks bail in Crime No.129 of 2023, registered with Vazirabad Police Station, District Nanded, for the offences punishable under Sections 384, 385, 386, 387, 201 read with Section 34 of the IPC, Sections 3/25 of the Arms Act and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999.
3. Learned counsel for the applicant would submit that the applicant and one Nandkumar were classmates of the main accused Rindha, who has been settled in Pakistan. When the ransom was demanded to first informant/victim, he went to

Nandkumar and Nandkumar took the assistance of the applicant for negotiating the ransom amount. When Rindha made a phone call to the victim, the applicant talk to him and told him that the victim is also from their college. Due to his intervention, the amount of ransom was reduced. Only on this fact, the applicant has been arraigned as an accused in the crime. He would submit that the statement of the applicant under Section 18 of the MCOC Act is contrary to the prosecution case. The prosecution could not collect the corroborative evidence to strengthen the statement of accused under Section 18 of the MCOC Act. Except this, the prosecution has no evidence to satisfy the Court that the applicant was the associate of Rindha and group. There are no grounds to believe that the applicant is guilty of such offence and he is likely to commit such offence while enlarged on bail. He would submit that the applicant has no bad past. The trial may take its time. Nothing is recovered from the applicant. The prosecution also has no case that he facilitated Rindha in extortion of the ransom from the people of Nanded. He simply held guilty for having talk to Rindha. Except this, he has no role to play. Hence, he may be granted bail.

4. Learned APP has strongly opposed the application. He is seriously harping upon the statement of the applicant under Section 18 of the MCOC Act. He would submit that he has stated before the competent authority under Section 18 of the Act that he used to act as per the say of co-accused Rindha. He has played the active role. His conduct was sufficient to believe that he was the member of the gang. He was facilitated the main accused to commit the extortion. The offence is serious. There is no material before the Court to believe that there are reasonable grounds to believe that the applicant is guilty for such offence and he would not commit any offence while enlarge on bail. He also referred to Section 21 of the MCOC Act and stated that the applicant does not deserve bail.

5. In reply, learned counsel for the applicant would submit that the so called mobile handset has been recovered prior to the statement under Section 18 of the MCOC Act.

6. Perused the papers. The prosecution did not collect the corroborative evidence after the statement of the applicant recorded under Section 18 of the MCOC Act. The prosecution has no material to show that before this incident, the applicant played role in facilitating the main accused to extort the money

from the people. There is nothing on record to point out that the applicant was constantly in contact with Rindha, who is settled in Pakistan. The material placed on record shows that the victim took the assistance of the applicant to reduce the ransom. The applicant talked to Rindha on receiving phone of the victim. There should be a reasonable ground to believe that the accused had actually participated in the organized crime. The bail under MCOC Act may not be granted, if there is likelihood that the person while enlarged on bail would commit offence. It is important to examine that when the trial would be concluded. A specific role ought to have been attributed to the accused to deny bail. There should be a material that may raise the confidence of the Court that there is likelihood of committing the offence after enlarging the applicant on bail.

7. Considering the material on record, there is nothing against the applicant except this solitary incident. Therefore, this Court is of the view that the applicant deserves bail though there are certain restrictions under Section 20(1)(iv) of the MCOC Act. Hence, the following order :

ORDER

- (i) Bail Application is allowed.

(ii) Applicant **BHARATKUMAR @ MAXI DHARAMDAS POPTANI** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, on the following conditions :

- (a) He shall not tamper with the prosecution witnesses.
- (b) He should not contact main accused or any member concerned with him in any mode or manner till the trial is concluded.
- (c) He shall submit his passport, if any to the police and would not claim it till the trial is concluded.
- (d) He should not leave Nanded town without leave of the Court till trial is concluded.
- (e) He shall attend the trial on every date.
- (f) He shall not involve in any crime.

(S. G. MEHARE, J.)

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