



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

926 BAIL APPLICATION NO. 1447 OF 2024

MAYUR ANIL GAIKWAD

VERSUS

THE STATE OF MAHARASHTRA

WITH

CRIMINAL APPLICATION NO. 4057 OF 2024

IN BA/1447/2024

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Advocate for Applicant : Mr. Nitin Bhavar Patil LLP Advocate
And Legal Consultancy.

APP for Respondent/s-State : Ms. V. S. Choudhari.

Advocate for Informant to assist APP : Mr. Sudrik S. V.

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CORAM : S. G. MEHARE, J.

DATE : 27.09.2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the informant.

2. The applicant seeks bail in Crime No.641 of 2023, registered with Rahuri Police Station, District Ahmednagar, for the offences punishable under Sections 394, 395, 364-A, 323, 325, 341, 427, 504, 506, 120-B read with Section 34 of the IPC and Section 4/25 of the Arms Act and Sections 37 and 135 of the Maharashtra Police Act and Sections 3(1)(ii), 3(2) and 3(4) of the MCOC Act.

3. The incident happened on 12.06.2023. The prosecution case in brief was that the victim was proceeding towards his village in his car with his driver. Suddenly one car intercepted his car. Four persons covering their faces with clothes alighted from that car. One of them, broken the rear wind glass of the car. Then they applied the strips to their eyes and taken them at distant place. Thereafter, they took away Rs.9,00,000/- cash, golden chain from his neck and golden ring from his finger. They again took them to the another places and left them at one place. When they removed the strips they learnt that they were left near Wambhori Ghat. The report was lodged. A thorough investigation was made. The CCTV footage were collected and the story was brought that the accused were reeking and following him from Ahmednagar. Since the applicants were unidentifiable, the report was lodged against the unknown persons. Police after doing the exercise, arrested a few accused and then MCOC Act was applied. One of the co-accused disclosed the name of the applicant in his statement under Section 18 of the MCOC Act. Thereafter, the applicant was arrested.

4. Learned counsel for the applicant argued that nothing is recovered from the applicant. He is not the member of the

syndicate run by the so called Kiran Kolape. He is a friend of one of the co-accused who was knowing Kiran Kolape. There are two crimes to his discredit for the bodily offences. Since nothing is recovered from him and he is not a member of syndicate, he deserves bail. He is a sole earning member of his family.

5. Learned APP has strongly opposed the bail application. She would argue that the serious offences have been committed. The material collected by the Investigating Officer proves the nexus of the applicant with the crime. Since the persons committed robbery had covered their faces, it is not expected that they would be named in the FIR. The MCOC Act is correctly applied. The offence is serious. Hence, he may not be granted bail.

6. Learned counsel for the victim has argued that the applicant is a member of gang run by one Kiran Kolape, who was the police constable. He has committed other offences and robbed the lady lawyer subsequent to the bail granted to him. When he was on bail, the golden ring of that victim was robbed. However, the applicant did not produce it. Kiran is repeatedly committed the same crimes. Therefore, the applicant may not be deserved bail.

7. As far as the application of MCOC Act is concerned, this Court by its order dated 03.05.2024 in Bail Application No.549 of 2024, Mahesh Vitthal Wagh Vs. The State of Maharashtra, after elaborate discussion held that at this juncture, it would be difficult to accept whether MCOC Act is applied to the case or not. The same rule would apply here. Though the applicant has been arraigned as an accused, nothing incriminating is recovered from him. Whether he is a member of the syndicate is a matter of fact to be established during the trial. He is languishing in jail for sufficient time. This Court is of the view that his detention would serve no purpose. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **MAYUR ANIL GAIKWAD** 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) The applicant should not tamper with the prosecution witnesses.

- (b) He should attend the trial on each and every date and co-operate with the Trial Court to conclude the trial.
 - (c) He should keep the concerned Police Station Officer informed on every First and Last Friday of the month either physically or by phone if not present in the town between 11.00 a.m. to 1.00 p.m. till the trial is concluded.
 - (d) He should not involve in an identical crime in future.
 - (e) He should not contact the other co-accused of this crime till the trial is concluded.
- (iii) Criminal application No.4057 of 2024 stands disposed of.

(S. G. MEHARE, J.)

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vmk/-