



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 BAIL APPLICATION NO. 1470 OF 2024

DHANANJAY PRAKASH KALE

VERSUS

THE STATE OF MAHARASHTRA

WITH

CRIMINAL APPLICATION NO. 4058 OF 2024
IN BA/1470/2024

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Advocate for Applicant : Mr. Rahul R. Karpe.

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 is 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. Then they applied the strips to their eyes and taken at distance place. Thereafter, they took away Rs.9,00,000/- cash, golden chain from his neck and golden ring from his finger. They again took him 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 rekying and following him from Ahmednagar. Since the applicants were unidentifiable, the report was lodged against the unknown persons. Police after doing exercise, arrested 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 submits that there is no cogent evidence against the applicant about the role played by him. There are discrepancies as regards to use of the iron

rod. At one hand, it is states that he broken the rear wind glass and at another hand he states that he assaulted the first informant with the iron rod. Except the iron rod, nothing was recovered from him. The injuries caused to the first informant were also not serious. The role of the applicant is identical with the role of co-accused Anil Ramchandra Ghadge, who has been granted bail. Hence, he deserves parity. In the circumstances, it would be difficult to accept that MCOC Act is applied.

5. Learned APP has strongly opposed the bail application. She would argue that the applicant is connected with the main gang leader and he was involved in the identical crimes. It was a syndicate. Therefore, the MCOC Act would apply. She also argued that the injured had suffered abrasion injuries. The injured has specifically stated that somebody beat him with hard object. The hard object is a iron rod. Recovery of the weapon at his instance supports the prosecution case. She also states that the learned counsel appearing for the victim left the Court by telling he would be adopt her arguments.

6. This Court while deciding the Bail Application No.549 of 2024, Mahesh Vitthal Wagh Vs. The State of Maharashtra, dated 03.05.2024, discussed the facts in detail and opined that

at this juncture it is difficult to accept that MCOC Act would apply to the case or not. Except, the recovery of the pipe from the applicant, there is no evidence against him. However, the applicant does not deserve the parity. Whether he was a member of syndicate is a matter of evidence on merit. The applicant is languishing in jail for sufficient time. The trial would take its time. Therefore, he deserves bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **DHANANJAY PRAKASH KALE** be released on bail on furnishing PB. 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 a 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.4058 of 2024 stands disposed of.

(S. G. MEHARE, J.)

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vmk/-