

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

CRIMINAL WRIT PETITION NO.2338 OF 2023

Mustak Moulali Mulla ... Petitioner
Versus
The State of Maharashtra and Ors. ... Respondents

Mr. Satyavrat Joshi i/b Ms. Shivani Kondekar, for the Petitioner.

Mrs. P. P. Shinde, APP for the Respondent – State.

SDPO Pranil Gilda, Miraj Division, present.

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 6th AUGUST, 2024.

P. C. :

Heard learned Counsel for the parties.

2 By this petition, the petitioner seeks pre-arrest bail in connection with C.R. No. 124 of 2019 registered with the Vishrambaug Police Station, Dist-Sangli, for the alleged offences punishable under Sections 302, 307, 120B, 109, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code; sections 4, 25 and 27 of the Arms Act; and Sections 3(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act ('MCOC Act')

Rekha Patil

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3 Learned Counsel for the petitioner submits that the petitioner has been falsely implicated in the said case. He submits that in fact, during the pendency of the aforesaid petition, the petitioner's brother was killed by Sachin Dongare, who is also an accused in the present C.R. He submits that till date, the petitioner has not been declared as a proclaimed absconder, and as such, there is no impediment for granting pre-arrest bail. Mr.Joshi submits that, although there are three confessional statements made by three co-accused recorded under Section 18 of the MCOC Act, the said confessional statements have been retracted subsequently and as such, reliance cannot be placed on the same.

4 Mrs. Shinde, Learned APP, opposed the prayer of pre-arrest bail. Learned APP has filed an affidavit of Mr. Pranil Lata Prafulla Gilda, Sub Divisional Police Officer, attached to Miraj Division, Sangli, dated 22nd July, 2024. The said affidavit is at page No. 785 of the Petition. Learned APP states that from the date of registration of the FIR i.e. 11th April, 2019, the petitioner, who is original accused No.11, is absconding and as such, is not entitled for the

relief as sought for. She submits that infact, on 14th June, 2024, the prosecution filed an application before the concerned Court for declaring the petitioner as a proclaimed offender under Section 82 of the Code of Criminal Procedure (“Cr. P. C.”). She submits that the said application is pending before the concerned Court for consideration.

5 Perused the papers. It is the prosecution case that, the petitioner and his brother (now deceased) had given “*supari*” to Sachin Dongare, who is alleged to be the head of the organized crime syndicate, to eliminate one Mahesh Naik. It is further the prosecution case that, pursuant thereto, Mahesh Naik was murdered by Sachin Dongare and his gang. It appears that there are three confessional statements of the accused recorded under Section 18 of the MCOC Act, viz. of Swapnil Kumbhar, Sachin Dongare and Sushant Kadam. All the accused have named and implicated the petitioner in their confessional statements i.e. that an amount of Rs.5 lakhs was given by the petitioner and his brother to Sachin Dongare to eliminate Mahesh Naik. They have further stated that the amount that was promised was Rs.20 lakhs, and that Rs. 5 lakhs

was given as advance. It appears that although, the incident had taken place on 10th April, 2019, the petitioner preferred an anticipatory bail application only in 2023, which application came to be rejected. Till date, the police have not been successful in nabbing the petitioner. It is not in dispute that the prosecution has filed an application before the concerned Court to declare the petitioner as a ‘proclaimed absconder’, however, the said application is yet to be decided by the concerned Court.

6 Considering the aforesaid, on merits, no ground is made out to grant any relief, as sought for in the petition. Hence, petition is dismissed and disposed of accordingly.

7 All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.