

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

CRIMINAL BAIL APPLICATION NO. 1746 OF 2023

Nikhil Prakash Waghmale

...Applicant

Vs.

The State of Maharashtra

...Respondent

SAYALI
DEEPAK
UPASANI

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SAYALI DEEPAK
UPASANI
Date: 2024.07.04
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Mr. Shailesh D. Chavan with Hrishikesh Avhad with Nagesh Khedkar,
Advocate for Applicant.

Mrs. Geeta Mulekar, APP for State-Respondent.

CORAM:- ANIL S. KILOR, J.

DATED:- 3rd JULY, 2024

PC:-

1) Heard.

2) By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No. 637 of 2020 registered with Satara Taluka Police Station, District: Satara, for the offences punishable under Section 395 of Indian Penal Code (for short 'IPC') and Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime Act, 1999 (for short 'MCOC Act').

3) In the present matter, the case of the prosecution is that while the accused persons were going in their Car bearing registration No. MH-11-0677, a Truck bearing registration No. MH-15/DK-5081, which the informant–driver was driving, overtook the Car of the accused persons because of they got angry and stopped the Truck after some distance and assaulted the driver and asked for damages. Thereupon, the driver i.e. informant paid Rs.3,000/- to the accused persons. However, the further story is that the accused persons thereafter snatched Rs.5,000/- from the informant and as such the offence was registered under Section 395 of the IPC along with other offences and also invoked provisions of MCOC Act, 1999.

4) The offence was registered against five accused persons out of which one is juvenile and two have already been released on bail. As far as the applicant is concerned, he is accused No. 1.

5) While opposing the bail application, the learned APP submitted that there is sufficient material including CCTV footage and the statement under Section 18 of the MCOC Act, 1999 to show involvement of the applicant. It is further pointed out that in the identification Parade, the applicant was identified. Accordingly, she prays for the rejection of the present application.

6) The applicant has been in jail from last about three years and seven months and having considered the charge-sheet along with material collected by the Investigating Officer, it is evident that even as per the prosecution story, the amount of Rs.3,000/- was paid by the

driver on his own towards damages to the accused persons. In the subsequent part of the statement, there are allegations of snatching Rs.5,000/- from the driver.

7) A statement under Section 18 of MCOC Act, 1999 on which the prosecution has heavily placed reliance, does not refer to such incident of snatching of any amount, it only refers to assault.

8) In the circumstances, it creates doubt about the veracity of the prosecution story particularly in relation to offence under Section 395 of IPC. Hence, there is a reasonable ground to believe that the applicant is not guilty of the alleged offence. Moreover, there is no possibility that the applicant would commit a similar offence, if he is released on bail.

9) In that view of the matter, I am of the opinion that the applicant is entitled for grant of bail. Hence, I pass the following order.

ORDER

- i) The Criminal Bail Application is allowed.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No. 637 of 2020 registered with Satara Taluka Police Station, District: Satara, for the offences punishable under Section 395 of Indian Penal Code (for short 'IPC') and Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime Act, 1999 (for short 'MCOC Act'), on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty-Five Thousand) with solvent surety in the like amount;

- iii) The applicant shall attend the said Police Station on 1st and 16th day of each month between 12:00 noon and 2:00 p.m., till the conclusion of the trial except on the date of trial except on the date of trial.
- iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- v) Liberty is granted to the State to apply for cancellation of bail in case the applicant commits the similar offence.
- vi) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

The Criminal Bail Application is **disposed of** accordingly.

[ANIL S. KILOR, J.]