

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3153 OF 2023

Sunil @ Gotya Hanmant Surwase ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Sidheshwar Biradar, for the applicant.

Ms. Geeta Mulekar, APP, for the Respondent/State.

CORAM : ANIL S. KILOR, J.

DATE : 10TH JULY, 2024.

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PC:

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.308 of 2019, registered with Tembhurni Police Station, Dist: Solapur for the offences punishable under Sections 392 read with 34 of Indian Penal Code and Section 3 (1) (I) (ii), 3(2) and 3(4) of Maharashtra Control of Organized Crime Act, 1999 (MCOC, Act).

3. The applicant is in jail from last 4 years and 6 months and having gone through the charge-sheet and the material collected by the IO during the investigation. It is evident that nothing was recovered

from the applicant and if the confessional statement of the gang leader is concerned, it speaks about himself and the co-accused Pintu @ Chimaji Shivaji Lashkar, and no role is attributed to the applicant.

4. The gang leader was released by granting default bail. No doubt there are three antecedents of similar nature against the applicant and common with the gang leader. However, after going through the charge-sheet and considering the nature of evidence and the allegations made against the applicant there is reasonable ground to believe that the applicant is not involved in the alleged offence and further if the applicant is released on bail, there is no possibility that he will commit the similar offence.

5. In view of the above referred observations and the period of incarceration of the applicant, the application is allowed. Accordingly, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant shall be released on bail in Crime No.308 of 2019, registered with Tembhurni Police Station, Dist: Solapur for the offences punishable under Sections 392 read with 34 of Indian Penal Code and Section 3 (1) (I) (ii), 3(2) and 3(4) of Maharashtra Control of Organized Crime Act, 1999 (MCOC, Act), on furnishing P.R.Bond of Rupees Twenty-Five Thousand

with one solvent surety in the like amount;

iii) The applicant shall not enter into the territorial jurisdiction of police Station Tembhorni, Dist: Solapur, till the conclusion of the trial, except on the date of trial;

iv) The applicant shall provide his address and name of the nearby police station to the IO, which he shall attend the said Police Station on 1st and 16th day of every month between 12.00noon to 2.00p.m., till the conclusion of the trial except on the date of trial.

v) 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;

vi) Liberty is granted to the State to apply for cancellation of bail if the applicant commits similar offence.

vi) The applicant shall attend the trial before the Special Court regularly on every date unless exemption is granted by the Special Court.

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

(ANIL S. KILOR, J)