

Digitally signed
by RUPALI
RAJESH
WAKODIKAR
Date:
2024.04.24
17:26:00 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1391 OF 2022

Anil B. Vedmehta

...Petitioner

Versus

The State of Maharashtra

...Respondent

Mr. Ali Kashif Khan Deshmukh a/w Ms. Snigdha Khandelwal & Ms.
Hitanshi Gajaria i/b Ms. Riya Jain for the Petitioner.

Mr. Niranjan S. Mundargi a/w Ms. Keral Mehta a/w Ms. Shweta R.
Rathod i/b Elixir Legal for the Respondent No.2.

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.
DATE : 19th APRIL, 2024

P.C. :

1. Heard learned Counsel for the parties.
2. By this petition, the petitioner seeks the following reliefs:
 - “i. That this Hon'ble Court be pleased to set aside & quash the Sanction order dated 14.11.2017 passed by Additional Commissioner of Police (Crime) Thane & order u/s 23(2) of MCOC Act, 1999 dated 23.01.2018 passed by the Commissioner of Police (Param Bir Singh) to invoke section 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organised Crime Act, 1999 against the Petitioner.*
 - ii. That this Hon'ble Court be pleased to stay the proceedings in Spl. MCOC Case No. 18 of 2018 pending before Spl. MCOC Court, at Mumbai till the final disposal of this Petition.*
 - iii. That this Hon'ble Court after allowing prayer (i) be pleased to transfer the FIR No. 380 of 2017 against the present Petitioner to the concerned trial court (Magistrate Court)*
 - iv. That the Petitioner be granted protection from arrest so he can join the investigation in FIR No. 380 of 2017.*
 - v. Ad- interim relief in respect to prayer clause (i) & (ii).*

vi. Any other orders/ reliefs be passed as this Hon'ble Court deems fit & necessary in the interest of justice.”

3. Learned APP as well as learned Counsel for the complainant questioned the maintainability of the aforesaid petition. They submit that the petitioner is in Los Angeles, USA and has filed the present petition seeking quashing of the sanction order passed by the Additional Commissioner of Police (Crime), Thane. They submit that the said petition cannot be entertained considering the fact that the proclamation had already been issued against the petitioner. They submit that without cancellation of the proclamation which is issued by the concerned Court, the aforesaid petition ought not to be entertained.

4. Perused the papers. As noted aforesaid, the petitioner seeks quashing and setting aside of the Sanction Order dated 14th November, 2017, passed by the Additional Commissioner of Police (Crime), Thane, as well as the order under Section 23(2) of the MCOC Act dated 23rd January, 2018, passed by the erstwhile

Commissioner of Police invoking the provisions of the MCOC Act against the petitioner. It is not in dispute that during the pendency of the aforesaid petition, the trial Court had issued proclamation under Section 82 of the Criminal Procedure Code on 29th September, 2022. Admittedly, the petitioner has not applied before the trial Court for cancellation of the proclamation issued against the petitioner. The petitioner is residing in Los Angeles, USA and is not taking any steps for getting his proclamation cancelled.

5. Considering the aforesaid and having regard to the judgment of the Apex Court in this regard that once proclamation issued, no protection from arrest can be granted.

6. The petition is accordingly dismissed.

7. Needless to state, that in the event, an application for cancellation of the proclamation is made by the petitioner, the learned Judge to consider the same on its own merits, uninfluenced by the

order passed today.

8. Needless to also state, that if the proclamation is cancelled by the trial Court, liberty is granted to the petitioner to file a fresh petition seeking the very same relief as sought for in the aforesaid petition.

9. We make it clear that we have not heard the petition on the prayers sought for in the petition and as such, keep all contentions of all parties open.

10. Petition is disposed of accordingly.

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

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.