



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

BAIL APPLICATION NO. 1441 OF 2023

MAYUR @ RAKESH GULAB KUMBARE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Debajyoti Talukdar for the Applicant.
Ms. Sangeeta D. Shinde, APP for the State.
API Sandip Pawar, Kothrud Police Station, Pune.

CORAM : M. S. KARNIK, J.

DATE : APRIL 01, 2024

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 143, 144, 147, 148, 149, 307, 324, 427, 323, 504 and 506(2) of the Indian Penal Code, Sections 4 and 25 of the Arms Act, Sections 37(1) and 135 of the Maharashtra Police Act, Sections 3 and 7 of the Criminal Law Amendment Act and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ("MCOCA" for short) registered on 21/12/2021 vide C.R.

No.273 of 2021 with Kothrud Police Station, Pune.

3. The date and time of the incident is 20/12/2021 at about 8 p.m. In the parking lot of the building near which the offence took place, the informant was talking with his girlfriend on the phone. The informant heard sound of a quarrel taking place. The informant saw the accused Onkar Phatak, Manish Mhathvad, Ganesh Raut, the present applicant and other two associates were assaulting his friend Rahul Trimbak. The informant, therefore, asked them "why are you coming here for drinking liquor". The accused then started abusing and quarreling with the informant and said that this chapter be closed here and here itself. They assaulted the informant with a bottle of beer on his head and hand. The applicant was not carrying any weapon.

4. Learned APP opposed the application and invited my attention to the affidavit in reply filed on behalf of the respondent duly affirmed by Bhimrao Savla Tele, Assistant Commissioner Police, Kothrud Division, Pune City, District Pune. Learned APP submitted that there are as many as 12 C.Rs. including the present one registered against the

applicant at Kothrud, Paud and Yerawada Police Stations where the gang headed by the present applicant is allegedly running its organised crime activities. It is further submitted that the applicant is a gang leader and at his instance the offence took place.

5. The applicant was arrested on 21/12/2021 and is now in pre-trial custody for more than 2 years and 3 months. The co-accused Tushar @ Ravan Suresh Polekar who is alleged to be having a similar role has been enlarged on bail by this Court by the order dated 05/12/2023 in Bail Application No. 639 of 2023. However, the applicant is not claiming parity with Tushar as the applicant is a gang leader. MCOCA has been invoked after the registration of the present offence. *Prima facie*, it appears that the offence is not an outcome of any activity of an organised crime syndicate of which he is a leader. The present incident appears to have happened on the spur of the moment, as there was resistance on the part of the injured witness and the informant as they had some objection to the accused coming to their area and consuming liquor. In the overall facts and circumstances of the present

case, in my opinion, the bar of Section 21(4) of the MCOCA will not apply. As the offences registered against the applicant are in the jurisdictions of Kothrud, Paud and Yerawada Police Stations, I propose to impose stringent conditions, hence it is unlikely that the accused will commit any offence during the pendency of the trial. The trial is unlikely to conclude any time soon. Hence, the following order:-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mayur @ Rakesh Gulab Kumbare in connection with C.R. No.273 of 2021 registered with Kothrud Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount.
- (c) Except for attending the trial in the present case and other pending cases, the applicant shall not enter Pune district after being released on bail, till the trial in the present case concludes.
- (d) The applicant shall report to the Police Station nearest to the place of his residence, while residing outside Pune district, once a month, on the first Monday of every month, between 11.00 a.m. and 1.00 p.m.

commencing May 2024.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, while residing outside Pune district, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport to the investigating officer. If the applicant does not have a passport, the applicant shall file an affidavit before the trial Court to that effect.

6. The application is disposed of.

(M. S. KARNIK, J.)