

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

CRIMINAL BAIL APPLICATION NO. 1904 OF 2023

Rajendra @ Raju Dharamsi Dave ... Applicant
Versus
The Deputy Superintendent Of Police And Anr. ... Respondents

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Mr. Sudip Pasbola a/w Mr. Rishi Bhuta a/w Ms. Ankita Bamboli,
Advocate for the Applicant.

Mr. Y. Y. Dabake, APP for the Respondent – State.

Mr. Anilkumar Bhimrao G. (H.C.) S.P. Office Kolhapur, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 19th JANUARY, 2024.

P.C.:

1. The applicant is seeking bail in connection with C.R.No.136 of 2019, registered with Rajarampuri Police Station, Kolhapur, for the offences punishable under Sections 143, 147, 149, 395, 307, 353, 332, 155, 109, 324, 323 and 427 of Indian Penal Code (“IPC”, for short) and Sections 4 and 5 of Prevention of Gambling Act.

2. The applicant was arrested on 5th August, 2019. Prior approval was obtained under Section 23(1)(A) on 10th April, 2019, for invoking the provisions of the MCOC Act. Sanction for prosecution under the provisions of MCOC Act was granted on 4th

October, 2019. Provisions of sections 3(1)(2), 3(2), 3(4) and 3(5) of MCOC Act were applied. On completing investigation, charge-sheet was filed.

3. The case of the prosecution is that on 8th April, 2019, raid was conducted at Matka Den of accused no.26 Salim Yasim Mulla. While police were recording panchanama, accused no.1 (wife of accused no.26) instigated other accused who attacked the police and attempted to commit murder, prevented the police from performing their duty, and, tried to snatch the cash from the police which was seized from the house of accused Nos.1 and 26. About 29 accused were arrested. Accused no.26 and others were members of organized crime syndicate indulging in continuous unlawful activity. The kingpin of the gang was accused no.26, Salim Yasim Mulla. Various cases were registered against him such as dacoity, extortion, unlawful business of betting, attempt to commit murder etc. During the course of investigation, it was revealed that accused no.26 Salim Yasim Mulla used to sent money received from illegal Matka business and acquired huge property out of the proceeds received from the illegal Matka business. Accused no.30 Rakesh Agarwal, 31 Zakir Abdul Mirajkar, 32 Ankush Maruti Vagre, 33 Sarad Devasrao Korane, 36 Jayesh Shevantilal Shah, 37 Shailesh

Gunvantirai Maniyar, 38, Viral Prakash Sawla, 39 Jitendra Kantilal Gosalia, 40 Jayesh Sawla, 41 Rajendra Dave, 42 Manish Kishor Agarwal, 43 Samrat Subhash Korane and 44 Prakash Sawla facilitated the other accused particularly accused no.26 Salim Mulla for committing the organised crime. They were members of organised crime syndicate headed by accused no.26 Salim Mulla. During personal search of the applicant, mobile hand set of the applicant was seized under arrest panchanama. On completing investigation, charge-sheet was filed.

4. The previous application for bail preferred by the applicant was rejected by this Court vide order dated 11th August 2021.

5. Learned Advocate Mr. Pasbola appearing for the applicant submitted that the applicant is in custody from 5th August 2019 i.e. about 4 and half years. Charge was framed on 19th October 2021. However, pursuant to order framing charge, no witness has been examined. There is no progress in trial. The co-accused Javed Mulla had been granted bail vide order dated 8th February 2022 on the ground that the witnesses have not attributed any overt to the said applicant and Prima facie there is no material to infer his involvement in the Matka business of accused No.26, who was in jail for a period of about 4 years. It is further submitted that the co-

accused Shridhar Kamble and Shaharukh Lad were also granted bail by this Court vide order dated 8th February, 2023 on the ground that no role has been attributed to the applicant by witnesses and there is no material to infer the involvement in matka business. He is in jail for a period of about four and half years. The applicant was not present at the place of incident. He had not participated in the assault. There are no criminal antecedents against him. It is submitted that pursuant to the rejection of the application for bail by this Court, the applicant had preferred an appeal before the Apex Court which has been withdrawn by order dated 18.11.2022. However, there is no progress in the trial.

6. Learned A.P.P submitted that the previous application for bail has been rejected by this Court. There is sufficient evidence against the applicant. The applicant was involved in distributing money to the heads of the organized crime syndicate. The prosecution has submitted list of witnesses before the trial Court and the Court has passed an order to keep the matter for fixing day to day programme for trial. The said order was passed on 14.08.2023.

7. The applicant is in custody for a period of about 4 and half years. Although charge is framed on 19.10.2021, there is no progress in the trial. The prosecution has provided the list of 140

witnesses. Learned A.P.P. submitted that the prosecution may examine about 60 witnesses. This indicates that the trial may not get over immediately. There are no criminal antecedents against the applicant. The applicant was not involved in assault. The co-accused are granted bail by this Court vide order dated 8th February, 2023. the embargo under Section 21(4) of the MCOC Act would not be an impediment to grant bail.

8. Considering the aforesaid circumstances, case for grant of bail is made out.

ORDER

- i. Criminal Bail Application No.1904 of 2023 is allowed;
- ii. The applicant is directed to be released on bail in connection with C.R.No.136 of 2019, registered with Rajarampuri Police Station, Kolhapur, on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- iii. The applicant shall report Rajarampuri Police Station, Kolhapur once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- iv. Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)