

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2570 OF 2023

Mangesh Dattatray Yadav

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Shailesh D. Chavan a/w Hrishikesh S. Avhad i/b S. H. Panhale, for the Applicant.

Mr. P. H. Gaikwad, APP, for the Respondent-State.

Mr. Maqsood B. Shikalgar, Police Constable, Vaduj Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : JANUARY 11, 2024

P.C.:

1. Heard Mr. Chavan, learned Counsel appearing for the Applicant and Mr. Gaikwad, learned APP appearing for the Respondent-State.

2. This is a regular Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973*.

3. The relevant details are as follows:-

1	Name of Applicant	Mangesh Dattatray Yadav - Accused No.2
2	C. R. No.	18/2016
3	Date of Registration of F.I.R.	23/01/2016

4	Police Station	Vaduj Police Station, Satara
5	Sections Applied	394, 397, 201 and 34 of the <i>India Penal Code, 1860</i> and 3(i)(ii), 3(2), 3(4) of the <i>MCOC Act, 1999</i> .
6	Date of Incident	22/01/2016
7	Date of Arrest	02/02/2016 [about 7 years and 11 months]
8	Date of filing of Charge-sheet	Charge-sheet is filed.
9	Total Number of Accused	3 Accused
10	Details of bail granted to any of the Accused	Accused No.1 and Accused No.3 released on Bail

4. Mr. Gaikwad, learned APP strongly opposes the Bail Application on the ground that there are four criminal antecedents and that Sections 3(i)(ii), 3(2), 3(4) of the *Maharashtra Control of Organised Crime Act, 1999* (“**MCOC Act**”) are invoked. He submitted that there is material against the Applicant.

5. This is a case where, except the present Applicant, all other Accused have been enlarged on bail. The Accused No.1-Akshay Popat Dhas has been released on bail by the Order dated 20th January 2022 passed by a learned Single Judge in Bail Application No.367 of 2021. The Accused No.3-Netaji Subhash Dhundare has been released on bail by Order dated 3rd July 2018 passed in Bail Application No.1319 of 2017.

6. As per the prosecution case, role of all the Accused is the same and that in fact the Accused No.1 is a 'Gang Leader' and that he has already been enlarged on bail. Out of total 3 accused, 2 are enlarged on bail.

7. This is a case where the Applicant is incarcerated for almost 8 years. As far as the trial is concerned, the charge is framed on 9th March 2023. However, thereafter, there is no further progress. There are more than about 25 witnesses.

8. Mr. Chavan, learned Counsel appearing for the Applicant has relied on the Order dated 29th July 2022 passed by a learned Single Judge in Bail Application No.33 of 2022 where the Applicant in that case was incarcerated for about four and a half years and although the offence was also lodged under the provisions of the MCOC Act and in that case, the Applicant was released on bail. In the said case, a learned Single Judge also took into consideration that the minimum punishment prescribed for the offence under the provisions of the MCOC Act is 5 years.

9. In the present case, as far as the offence under the provisions of the *Indian Penal Code, 1860* is concerned, the maximum sentence is of 10 years.

10. The Accused No.1 who is a 'Gang Leader' and against whom seven cases have been registered, has already been enlarged on bail. As far as the present Applicant is concerned, there are three

other cases where he has been enlarged on bail.

11. The Applicant is a resident of District-Satara and several witnesses are also residing in District-Satara. Mr. Chavan, learned Counsel appearing for the Applicant on instructions states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore reside outside District-Satara and the Applicant will reside at C/o. Kishor Pendsange, R/at Village Banjgol, Taluka - Akkalkot, District - Solapur.

12. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

13. The Applicant does not appear to be a flight risk.

14. In the facts and circumstances of this case the Applicant is entitled to be released on bail.

15. Accordingly, the Applicant can be enlarged on bail by imposing conditions. Hence, the following order:-

ORDER

- (a) The Applicant-Mangesh Dattatray Yadav be released on bail in connection with C.R. No.18 of 2016 registered with the Vaduj Police Station, District-Satara on his furnishing P. R. Bond of Rs.50,000/- with one or two sureties in the like amount.
- (b) The Applicant shall not enter the area of District-Satara after being released on bail except for

reporting to the Investigating Officer, if called and for attending the trial.

- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer while residing outside District-Satara and shall keep the same updated, in case there is any change.
- (d) The Applicant shall report to the Akkalkot North Police Station, District-Solapur once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Akkalkot North Police Station, District-Solapur to communicate details thereof to the Investigating Officer.
- (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/her from disclosing the facts to Court or any Police Officer.
- (f) The Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.
- (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, if any, to the Investigating Officer.

16. The Application is disposed of.

[MADHAV J. JAMDAR, J.]