



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

BAIL APPLICATION NO.3557 OF 2022

MANGAL @ RAFTARSINGH PULADSINGH BHOND..APPLICANT
VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

None for the applicant.

Mr. B. B. Kulkarni, APP for the State.

PSI- C.R. Wagh, Pen police station is present.

CORAM : M. S. KARNIK, J.

DATE : MARCH 5, 2024

P.C. :

1. This is an application for bail in respect of the offence punishable under sections 395, 412 of the Indian Penal Code ("IPC", for short), under sections 4(25) and 27 of the Arms Act and under sections 3(1)(ii), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short), registered on vide C.R. No. 242 of 2015 of with Pen police station.

2. None appears for the applicant. The applicant was arrested on 12/09/2016. The applicant is in pre-trial custody for more than seven and half years. Considering the period

of custody the applicant has undergone as under trial prisoner, with the assistance of learned APP, I have perused the materials on record. Learned APP opposed the application for bail. It is submitted that the applicant is a habitual offender. It is submitted that after present offence was registered, the applicant has committed offence under sections 394, 341 of IPC which is registered at Yerwada police station during the period he was absconding.

3. For convenience, the order dated 03/11/2023 in Bail Application No.3094 of 2023 enlarging the co-accused- Sunil @ Chinnu Mahesh Walmiki is reproduced which reads thus:

“2. This is an application for bail in respect of the offence punishable under Sections 395, 397, 347, 412 of the Indian Penal Code (hereafter ‘IPC’ for short), under Sections 4, 25 of Arms Act and under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter ‘MCOCA’, for short) registered on 29.12.2015 vide FIR bearing C.R. No.I-242 of 2015 with Pen Police Station, Raigad.

3. It is the case of the prosecution that the applicant is a part of the Organized Crime Syndicate which is headed by the gang leader - Ravi Ramesh Shinde. The prosecution case in brief is as under :-

On 29.12.2015 at about 2.15 pm, the informant Gopalkrishna Gopikrishna Gupta, working as Deputy Branch Manager in Bank of Maharashtra, Branch - Varasai, Tal - Pen, Dist - Raigad along with one bank peon namely Sandip Shantaram

Khot were going from Bank of Maharashtra, Pen Branch to Varasai Branch in Minidoor Rickshaw bearing No.MH-06-S-5495 along with one suitcase containing Rs.25,00,000/-. At that time three unknown persons came on two motorcycles and threatened the complainant with the help of country made pistol and knife and robbed an amount of Rs.25,00,000/- and three mobile phones and key of Minidoor Rickshaw and ran away. Thereafter, the complainant lodged the complaint vide C.R. No.242 of 2015 with Pen Police Station, Raigad for the offences punishable under Sections 395, 397, 120(b) of IPC read with Sections 3, 25 of Arms Act.

4. There are in all twelve accused. The applicant is the accused No.3. The applicant was arrested on 26.01.2016.

4. Learned APP invited my attention to the affidavit-in-reply filed on behalf of the respondent. The affidavit-in-reply is affirmed by Shivaji D. Phadtare, Sub-Divisional Police Officer, Sub-Division Pen, District Raigad. It is submitted that during the course of the investigation, memorandum statement of the present applicant was recorded on 03.02.2016 and 08.02.2016 and as per his memorandum panchnama, he produced Rs.10,000/- from the robbed amount. It is the contention of learned APP that though an amount of Rs.10,000/- was recovered, the applicant is the beneficiary of the major part of the amount. It is further submitted that the applicant has been identified during the identification parade. The identification parade was conducted after about three and a half months. Learned APP further submitted that the applicant was actively involved in the commission of the offence and the present applicant is the one who threatened the peon Sandip Khot and took away the suitcase having cash amount of Rs.25,00,000/- and mobile of the peon. The role of the applicant is disclosed in paragraph 13 of the affidavit-in-reply which reads thus :-

"I say that after that accused no.2 (Umar Salim Sharif), 3 (present accused applicant), 9 (Suraj Dayare), 11 (Kailas Hisalge), 12

(Roshan Dayare) and 13 (Mangal Singh Bhond) blocked the way of minidoor rickshaw with their motor cycles and threatened the complainant with the help of country made pistol and knife and robbed an amount of Rs.25,00,000/- from the said minidoor rickshaw. The present applicant/accused No.3 Sunil @ Chinu Valmiki and accused no.13 Mangalsingh @ Raftarsingh Poladsingh Bhond and Accused No.9 (Suraj Dayare), threatened the complainant and minidoor rickshaw driver Manoj Ramdas Panap with country made pistol and snatched their mobiles. Then the present applicant/accused no.3 Sunil @ Chinu Walmiki threatened peon Sandeep Khot with knife and took away the suitcase having cash amount of Rs.25,00,000/- and mobile of peon. Accused no.11 (Kailas Hisalge) got off the motorcycle and took the keys of minidoor rickshaw from minidoor driver Manoj Ramdas Panap. Thus, all these accused have together robbed the articles and cash of total amount of Rs.25,21,000/- and ran away to the side of Varsai Phata."

5. Further it is submitted that there is a statement of the co-accused – Roshan Dayare which is recorded under Section 18 of MCOC Act in which he has disclosed all facts in respect of the offence committed by the applicant. Learned APP submitted that there are as many as six offences registered against the applicant including the present offence. Learned APP submitted that having regard to the past history of the applicant the applicant does not deserve to be enlarged on bail.

6. The chart of the offences registered against the applicant is at paragraph 17 of the affidavit-in-reply which indicate that except for the present offence the remaining five offences registered against the applicant are all bailable offences. It is pertinent to note that the gang leader has been enlarged on bail. The prosecution proposes to examine 111 witnesses as per the chart. Learned APP submitted that it is not as if all the witnesses have been examined. However

considering the nature of the accusations and the materials on record it is obvious that large number of witnesses will have to be examined by the prosecution and the trial is likely to take a long time to conclude.

7. The applicant was arrested on 26.01.2016 and is now in custody for more than seven years and nine months as an under-trial. The trial has not yet commenced. Though the charge is framed the trial is likely to take a long time to conclude. Considering that the gang leader has been enlarged on bail and on the ground of long incarceration of the applicant as an under-trial with no possibility of the trial concluding any time soon, I am inclined to enlarge the applicant on bail on conditions. Further the applicant was 21 years of age at the relevant time when this offence was registered against him. Looking at the nature of the antecedents certain conditions will have to be imposed but it is not as if the applicant should be deprived the facility of bail only on the ground of there being criminal antecedents reported against him."

5. The applicant's role is similar to the co-accused-Sunil @ Chinnu Mahesh Walmiki who has been enlarged on bail. Considering the period the applicant has undergone as under trial prisoner and as co-accused has been enlarged on bail, in my opinion, the fetters of section 21(4) of MCOC Act will not be attracted in the present case. The investigation is complete. That trial is not likely to conclude soon is already considered in the aforesaid order. The charge-sheet has been filed. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Mangal @ Raftarsingh Puladsingh Bhond in connection with FIR bearing C.R. No.242 of 2015 registered with Pen Police Station, Raigad shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more solvent sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Pen Police Station, Raigad once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (d) 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.
- (e) On being released on bail, 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.
- (f) Except for attending the trial and for the purpose of reporting to the Investigating Officer and for attending to other criminal cases, the applicant shall not enter Raigad District after being released on bail, till

the trial concludes.

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

(h) This order may be communicated by learned APP through the concerned investigating officer to the jail superintendent, Taloja Central Jail, Navi Mumbai.

(i) Registry also to intimate the jail superintendent about this order so that the applicant can avail of the bail.

6. The application is disposed of.

(M. S. KARNIK, J.)