

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

**INTERIM APPLICATION NO. 3430 OF 2023
IN
CRIMINAL APPEAL NO. 628 OF 2021**

Kailas @ Mahesh Ashok Panchal

.... Applicant
(Original accused No.1)

v/s.

The State of Maharashtra
(Through Borivali Police Station)

..... Respondent

Mr. Milan Desai i/b Mr.Prashant Gurav Advocate for the Applicant.
Mr. J.P. Yagnik, A.P.P. for the Respondent -State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 01st MARCH, 2024

P. C.:

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1) Present Application is filed under Section 389 of the Criminal Procedure Code, for suspension of sentence and to release the Applicant on bail.

2) By a Judgment and Order dated 7th November 2020 passed by the Additional Sessions Judge and Special Judge under MCOC Act, Greater Mumbai in MCOC Spl.Case No.11/2014, the Applicant has been convicted under Section 120B r/w. 109 and Section 302 of the IPC and sentenced to suffer life imprisonment for remainder of life and with a fine of

Rs.20,000/-. Further, the Applicant has been convicted u/Ss. 3(1) (ii), 3(2) and 3 (4) the MCOC Act, 1999 and punished with life imprisonment for remainder of life and with fine of Rs.5 Lakh and in default to suffer S.I. for 3 years, on each count. Lastly, the Applicant has been convicted u/S.4 and 25 of Arms Act and punished with simple imprisonments of 3 years and with fine of Rs.5,000/- in default to suffer S.I. for 6 months.

3) Heard Mr. Milan Desai for the Applicant and Mr. J.P. Yagnik, A.P.P. for the State. Perused the record.

4) Learned advocate for the Applicant submitted that, as alleged deceased Sandeep was murdered at the behest of the Applicant. However, neither the Applicant was present on the date, time and place of the incident nor he has directly or indirectly participated in the crime. In fact, there is no evidence against the Applicant that, he was involved in this crime in any manner. However, the Applicant has been convicted and sentenced as above which is illegal. Hence the Applicant may be released on bail.

5) Learned APP has submitted that, there is sufficient material against the Applicant which shows that, the Applicant has caused the murder of Sandeep in an organized manner. The offence is of serious nature. Hence, bail may be rejected.

6) After perusal of the evidence on record, it indicates that, the

murder of Sandeep was committed by original accused Nos.2 to 4 in an organized manner at the behest of the Applicant, who is head of the organized crime syndicate. The evidence of PW-9, who is an eyewitness, clearly indicates that the murder of Sandeep was of brutal and gruesome nature, committed at a public place. Said evidence of PW-9 has been duly corroborated by the testimony of PW-7 and PW-10. Statements of two co-accused persons recorded under Section of 18 of MCOC Act, have been duly proved which also clearly indicates the involvement of Applicant in this crime.

7) In view thereof, we are not inclined to release the Applicant on bail during pendency of Appeal.

As a result, Interim Application is rejected.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)