IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3779 OF 2022

Sukeshkumar K. Laxman Suvarna .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH

CRIMINAL BAIL APPLICATION NO.3783 OF 2022

Sukeshkumar K. Laxman Suvarna .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Yashwardhan Tiwari with Ms.Tamanna Shaikh for the Applicant.

Ms.Mahalakshmi Ganpathy, A.P.P. for the State/Respondent.

Mr.Chandrakant Jadhav, ACP, 'D' East Crime Branch with PI Balgi, Unit 7, Crime Branch and PSI Dhotre, A.E.Cell, Crime Branch, present.

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CORAM: BHARATI DANGRE, J.
DATED : 30th APRIL, 2024

P.C:-

1. The two bail applications are filed by Sukeshkumar K. Laxman Suvarna, who face accusations in two distinct CRs, which have invoked the provisions of the Indian Penal Code (for short, **"the IPC"**) as well the Maharashtra Control of

Organised Crime Act, 1999 (for short, **"the MCOCA"**) and he seek his release on bail in both the CRs.

2. Bail Application No.3779 of 2022 arises out of C.R.No.509 of 2019, registered with Vikhroli Police Station, which has invoked Sections 307, 452, 120-B of the IPC, Sections 3, 5, 25 and 27 of the Indian Arms Act and Sections 3(1)(ii), 3(2) and 3(4) of the MCOCA.

In the said C.R., the Applicant came to be arrested on 10/11/2020.

Another Bail Application No.3783 of 2022 is filed in connection with C.R.No.30 of 2020 registered with DCB, CID, A.E.C, Unit VII, which has invoked Sections 387, 452,120-B read with Section 34 of the IPC and Sections 3(1)(ii), 3(2), 3(4) and 3(5) of the MCOCA.

3. The Applicant is shown to be arrested in the said C.R. on 10/11/2020 and since then he remained incarcerated, as the trial has not yet commenced and 45 and 100 witnesses are cited by the prosecution in these two cases respectively, to establish the offence against the accused persons.

4. The Applicant claim parity with co-accused-Indira Vitthal Pujari @ Mummy @ Amma, who has been released on bail on 30/09/2022, by recording a finding that, *prima facie*, there is no material in the charge-sheet to indict her and establish her connection as a member of the gang, headed by

her son Prasad Pujari, who is absconding. Reflecting that the ingredients of continued unlawful activity are conspicuously absent and mere deposit of the amount in the account of the co-accused with the help of another co-accused (preset Applicant), in absence of any positive evidence, merely on a presumption that, she had knowledge that her son is a gang leader and that she will be assisting in commission of crime, it was recorded that the charge-sheet falls short of to prove the accusations under the MCOCA.

Considering her long period of incarceration, when the progress of the trial is not in foresight, as in one case, 45 witnesses were to be examined by the prosecution, whereas in another case, 102 witnesses being cited by the prosecution, and in one case, charge not being framed, she came to be released on bail.

5. The learned counsel for the Applicant draw parity with her, as he is the person with whose aid, she is alleged to have deposited the money in the bank, as he is nephew of co-accused, Indira Pujari.

6. I have perused the order dated 30/09/2022, which has clearly referred to the complaints, which resulted in registration of two different CRs and I deem it appropriate to reproduce the case of the prosecution as appearing through the two CRs, which I have already recorded in the order dated 30/09/2022.

"4 The applicant faces the accusations in two distinct MCOCA cases which came to be registered in totally different circumstances, but revolving around the gang headed by Prasad Pujari, who is the son of the applicant. The C.R.No.509/2019 came to be registered when the complainant as per his daily routine, went to offer his prayers in Saibaba Temple on 19/12/2019 at around 7.00 am along with his son and two friends. On completing the rituals, when he was seated in the office, with the Priest and other devotees present in the temple, an unknown person wearing red shirt and blue jeans came to the door of the office and fired at him. The complainant got up and attempted to apprehend him and he was followed by his son and his friend as well as the watchman of the temple. At that time, the unknown person fired more rounds at them, but finally, the shooter was caught on the footpath outside the temple. The complainant was hit by the bullet in his right arm. When inquired about the cause of the assault, the shooter took the name of 'Prasad Pujari' and disclosed that on his directions, he had fired. This shooter was identified as Sagar Manoj Mishra – accused no.4. This resulted in registration of C.R.No.509/2019 which invoke Section 307, 452 IPC and the relevant provisions of Arms Act. The case was transferred to Anti Extortion Cell, DCB, CID in form of C.R.No.230/2019.

5 As far as the other C.R. is concerned, the complainant reported that he was engaged in construction business and on 22/6/2018, a building was demolished for construction of a new structure and he received a message from an international mobile number and the prosecution allege that the number was belonging to the wanted accused Prasad, who demanded a sum of Rs.One crore and threats of being killed if, the amount was not paid were given. The complainant knew that Prasad Pujari was a gangser and he responded by stating that the work had not started and the wanted accused further replied that as soon as the work is started, the demand should be satisfied.

The complainant allege that on 30/1/2020, while the complainant was present in the office, co-accused Sunil visited his office and made inquiries about his business activities and when he was told that his business was going smoothly, he was informed that the visit was as per the directions of Prasad Pujari, who would soon contact the complainant, but when he refused to connect himself, the co-accused left his office. At around 18.30 hours, the complainant received a phone call from an international number and Prasad Pujari inquired from him why he did not receive his call and he raised a demand of Rs.One crore which was negotiated to Rs.10 lakhs. When the complainant expressed his financial difficulty, he was asked to make arrangement of Rs.One lakh within a day, but the complainant expressed his inability to deposit the amount and sought some time. As per the complainant in the month of December, the wanted accused Prasad arranged to assault Mr.Chandrashekhar Jadhav, Shivsena Upvibhag Pramukh, and therefore, he was scared and lodged a complaint with Vikhroli police station, which invoke Section 387, 120B of IPC."

7. The present Applicant, in both the cases, is alleged of depositing an amount of Rs.49,000/- in one account and an amount of Rs.48,000/- in another account. It is the case of the prosecution that in December, 2019, the Applicant was visiting Udipi to attend funeral rites of his relative with, Indira Pujari. On the say of the gang leader, Prasad Pujari, it is alleged that the present Applicant alongwith Indira Pujari went to SBI ATM, Kinnigoli and Indira Pujari gave five bundles, consisting of Rs.50,000/- alongwith a chit containing account number. Thereupon, the Applicant is alleged to have deposited the amount into the account, the number of which was provided and the prosecution allege that the Applicant acted on the instructions of Prasad Pujari and, therefore, he is a member of the organised crime syndicate.

It is alleged that the Applicant was aware about the criminal activities of the gang leader, who is the son of Indira.

8. Perusal of the charge-sheet in both the cases would reveal that, barring the role of depositing money, which was withdrawn by Indira Pujari, there is no other material in the charge-sheet.

The learned APP would vehemently submit that the Applicant had visited Hong Kong with his aunt, Indira and this is an incriminating circumstance against him, but this accusation is rebutted by the learned counsel appearing for the Applicant, by submitting that he had accompanied his aunt, when he was 11-12 years old, and he being a minor with no knowledge that Prasad Pujari was running some sort of gang.

9. In any case, barring the statement, there is nothing in the charge-sheet to establish the connect of the Applicant with the gang leader, and the only material against him is that he accompanied his aunt, Indira Pujari and deposited the money provided by her.

10. In C.R.No.30 of 2020 (B.A.No.3783/22), 4 witnesses are examined, whereas the witnesses cited are 45 in number. In C.R.No.509 of 2019 (B.A.No.3779/22), charge is not yet framed and almost 100 witnesses are cited.

In the aforesaid, I deem it appropriate to release the Applicant on bail, as *prima facie*, this scanty material in the charge-sheet do not justify his further incarceration and ultimately, it is for the prosecution to produce the relevant material to establish his membership in the organised crime syndicate, headed by Pujari. Since, the accusations faced by him are now crystallized in the charge-sheet, with no antecedents attributed to him, the Applicant deserve his release on bail, on furnishing two different sureties/bonds in the two distinct cases, in which he is arraigned as an accused.

Hence, the following order.

: **ORDER** :

(a) Applicant- Sukeshkumar K. Laxman Suvarna shall be released on bail in connection with C.R.No.230/2019 registered by DCB CID, D-Special, Crime Branch, (C.R.No.509 of 2019 registered with Vikhroli Police Station) on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

Applicant-Sukeshkumar K. Laxman Suvarna shall be released on bail in connection with C.R.No.30 of 2020 registered by DCB, CID, A.E.C., Unit VII (C.R.No.42 of 2020 registered with Vikhroli Police station), on furnishing P.R.Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

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

(c) The Applicant shall mark his attendance with the concerned Investigating Agency, on first Thursday and Friday of every trimester beween 3.00 pm to 5.00 pm.

(d) On being released on bail, the Applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

(e) The Applicant shall attend the trial on regular basis.

10. The Applications are allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)