

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

CRIMINAL BAIL APPLICATION NO. 70 OF 2024

Vedant Kamlakar Gharat ...Applicant

Versus

The State Of Maharashtra ...Respondent

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Mr. Vinod Kashid, Advocate for the Applicant.

Mrs. Veera Shinde, APP for the Respondent – State.

Mr. Kunal Mohite, API, NRI Police Station, Navi Mumbai, present.

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CORAM : ANIL S. KILOR, J.

DATE : 19th JUNE, 2024.

P.C.:

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.268 of 2022, registered with NRI Police Station, District: Navi Mumbai for the offences punishable under Sections 386, 506, 120-B, 201 r/w 34 of Indian Penal Code (for short 'IPC') and Sections 3(1)(ii), 3(2), 3(4), 3(5) of Maharashtra Control of Organized Crime Act, 1999 (for short 'MCOC Act').
3. Learned Counsel for the Applicant submits that there is nothing against the Applicant to show that any threat was given by

the Applicant of death or grievous hurt and therefore Section 386 of IPC will not be applied to the Applicant. It is further submitted that there is no evidence to show that the Applicant is a member of the gang and there are criminal antecedents against the Applicant. It is submitted that the Applicant is a young boy who has completed his Engineering. It is submitted that he has been falsely implicated in that alleged offence. It is further submitted that the charge-sheet has been filed and further custody of the Applicant is not necessary. It is argued that the provisions of MCOC Act have wrongly been invoked against the Applicant.

4. On the other hand, learned APP strongly opposed the Application and placed reliance upon the statement of the Applicant under Section 18 of the MCOC Act, and the statements of other witnesses. It is submitted that the Applicant is involved in the alleged offence and he is the member of the said gang of which the Accused No.4 Vikrant @ Vicky Dattatraya Deshmukh is the gang leader. Learned APP further points out that as the Applicant collected the money, there is a sufficient evidence that he was involved in the alleged conspiracy.

5. However, I do not find favour with the said submission after going through the charge-sheet. It is evident that *prima facie*

there is nothing to show that Section 386 of IPC would apply against the Applicant in the present matter.

6. No doubt the Applicant has given statement under Section 18 of MCOC Act, however, learned Counsel for the Applicant submits that it was immediately retracted.

7. However, even if the such statement is considered, it does not show that he had given any threat to anyone for extortion to attract under Section 386 of IPC.

8. In the statement there is nothing to show that he has admitted that he is a member of the gang. Whereas, it appears that he has friendship with the co-accused Jitendra Deshmukh and on his request, he had collected the amount involved in the alleged offence.

9. Admittedly, there are no antecedents against the Applicant. Thus, in absence of evidence to show that the Applicant made any demand to the complainant and was threatened and induced to part with the amount, it is doubtful that Section 386 of IPC would apply to the Applicant.

10. The Applicant is in jail since last one and half years and the charge-sheet has been filed. In the above referred circumstances, considering the material against the Applicant, I am

of the opinion that there is a reasonable ground to believe that the Applicant is not guilty of the allege offence and he would not repeat the offence, if he is released on bail. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application No.70 of 2024 is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No.268 of 2022, registered with NRI Police Station, District: Navi Mumbai for the offences punishable under Sections 386, 506, 120-B, 201 r/w 34 of IPC and Sections 3(1)(ii), 3(2), 3(4), 3(5) of MCOC Act, on furnishing PR. Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;
- iii. The Applicant shall not enter within the territorial jurisdiction of Navi Mumbai, Raigad and Thane Police Stations, till conclusion of trial except for attending trial;
- iv. The Applicant shall attend the Police Station on 1st and 16th day of each month between 11:00 am to 12:00 noon till conclusion of trial;
- v. The Applicant shall not directly or indirectly make any

inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vi. Liberty is granted to the State for cancellation of bail if the Applicant commits similar offence;

vii. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.

viii. Application stands disposed off, accordingly.

(ANIL S. KILOR, J.)