

State of Maharashtra ... Respondent

Mrs. Pandurang Gaikwad, APP, for the Respondent / State.

CORAM : ANIL S. KILOR, J.

DATE : 26TH AUGUST, 2024.

3. The present application is being opposed on the ground that there is a confessional statement of one of the accused persons. Furthermore, on the ground that one of the witnesses Jalaluddin

Mohmad Razak Manihar identified the present applicant. It is further argued that the provisions of MCOC have been invoked against the applicant and there is one similar antecedent against the applicant.

4. Having gone through the charge-sheet and the relevant evidence collected by the IO, it is evident that, it is the case of the complainant that there were four accused persons who committed the alleged offence. There is no mention of fifth accused person.

5. As far as the witness Jalaluddin Mohmad Razak Manihar is concerned, he is not the eye-witness to the present incident but he is the complainant in C.R No. 1296 of 2021, in which the applicant is one of the accused who has been granted bail in that matter.

6. In the present matter the complainant or one of the witnesses Kallu both have not identified the applicant.

7. As far as fifth accused is concerned, there is no mention about him anywhere but interestingly, this matter was time to time adjourned at the request of the learned APP and when today the matter was taken up for hearing, it is pointed out that there were one more accused person who was absconding and was arrested on 27th July 2024 and immediately, within three days he gave a confessional statement under section 18 of MCOC. In the said statement he has stated that there were total five accused persons including him. This is the statement which the learned APP is strongly harping upon to oppose the applicant as the said accused has named the applicant in the said confessional statement.

8. Thus, in absence of any evidence to prima facie show that the applicant is one of the accused, in light of the fact that the charge-sheet has been filed and the applicant is in jail from last 3 years, I am of the opinion that the applicant is entitled for grant of bail as there is reasonable ground to believe that the applicant is not guilty of the alleged offence. Moreover, there is no possibility that if he released on bail he may commit the similar offence.

ORDER

- (i) Criminal Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No.1292 of 2021, registered with Chakan Police Station, for the offences punishable under Sections 364(A), 365, 384, 385, 75 r/w. 34 of the Indian Penal Code and Sections 3(1) (i) (ii) and 3(4) of the Maharashtra Control of Organised Crime Act (MCOC, Act), on furnishing PR.Bond of Rupees Twenty-five Thousand with one solvent surety in the like amount;
- iii) 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;
- iv) Liberty is granted to the State for cancellation of bail if the applicant commits similar offence;

v) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason.

(ANIL S. KILOR, J)