

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 819 OF 2024

Santosh @ Amar Prakash Ozarkar ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

WITH

INTERIM APPLICATION NO. 2327 OF 2024

Ravindra Sahebrao Gopale ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Ms Sana Raees Khan a/w Mr Aditya Parmar, Advocate for Applicant

Shri P.H.Gaikwad-Patil, APP for the State.

Ms Aruna Pai, Advocate for Intervener in IA/2327/2024.

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CORAM : ANIL S. KILOR, J.

DATED : AUGUST 30, 2024.

PC:

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.96 of 2023, registered with Shirgaon-Parandwadi Police Station, District :

Pune for the offences punishable under Sections 302, 120-B, 201, 109, 212 read with Section 34 of the Indian Penal Code, Section 4(27) of the Indian Arms Act, Section 37(1)(3), 135 of the Maharashtra Police Act, Section 7 of the Criminal (Amendment) Act, 2013 and Sections 3(1)(i)(ii), 3(3), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (“MCOC Act” for short).

3. Having gone through the charge-sheet and the relevant material collected by the Investigating Officer, it is evident that the applicant was not named in the First Information Report and on the basis of the CDR he was impleaded as an accused as he was found in contact with his brother-in-law, co-accused-Amol Gopale. Furthermore, prima-facie, no sufficient evidence is there to show that he was a part of conspiracy. In the confessional statement of the co-accused also not named the applicant.
4. The learned APP and the learned counsel for the intervener strongly opposed the application and pointed out that the offence is serious and the provisions of the MCOC Act have been invoked. It is pointed out that there was a motive as there was political enmity. It is further argued that the applicant helped the co-accused in fleeing away by arranging the vehicle and there is also an allegation of harbouring.

5. The applicant was arrested on 19/09/2023 and he is in jail from last about one year. There are no antecedents against the applicant. In the circumstances, there is no sufficient evidence against the applicant regarding conspiracy, it creates doubt about the prosecution story as regards the involvement of the applicant in the alleged offence. Merely, on the basis of the CDR it cannot be said that there is a sufficient evidence, particularly when the calls were made to the co-accused who is in relation with the applicant.
6. In the above referred backdrop and in view of the fact that in absence of any antecedents it cannot be said that there is any possibility that he may commit similar offence. Moreover, since I am of the opinion that there is no likelihood that the trial will be concluded in near future, the applicant is entitled for grant of bail. Accordingly, I pass the following order:
- i) The Criminal Application is allowed.
 - ii) It is directed that the applicant shall be released on bail in connection with Crime No.96 of 2023, registered with Shirgaon-Parandwadi Police Station, District : Pune for the offences punishable under Sections 302, 120-B, 201, 109, 212 read with Section 34 of the Indian Penal Code, Section

4(27) of the Indian Arms Act, Section 37(1)(3), 135 of the Maharashtra Police Act, Section 7 of the Criminal (Amendment) Act, 2013 and Section 3(1)(i)(ii), 3(2), 3(3), 3(4) of the Maharashtra Control of Organised Crime Act, 1999, on furnishing P.R.Bond in the sum of Rupees Twenty Five Thousand with one solvent surety in the like amount;

- iii) The applicant shall not enter the territorial jurisdiction of Pune District till conclusion of the trial, except for attending the trial.
- iv) The applicant shall provide his address and name of the nearby Police Station to the IO, which he shall attend on first and sixteenth day of every month between 10:00 a.m. and 11:00 a.m., till conclusion of the trial, except on the date of trial.
- iv) 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;
- v) Liberty is granted to the State to apply for cancellation of bail if the applicant commits similar offence or breaches any of the conditions for grant of bail.

- vi) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

The Criminal Application is **disposed of** accordingly.

In view of disposal of the main application, Interim Application No.2327 of 2024 is also **disposed of**.

(ANIL S. KILOR, J)