

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1135 OF 2024

Nagesh Satish Shinde ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Vikas Shivarkar, for the applicant.

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

CORAM : ANIL S. KILOR, J.

DATE : 21ST AUGUST, 2024.

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1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.98 of 2022, registered with Sahakarnagar Police Station, Pune District, for the offences punishable under Sections 307, 143, 144, 147, 148, 149, 323, 504, 506 r/w. 34 of the Indian Penal Code, Section 37(1) (3) r/w. 135 of the Maharashtra Police Act, Section 4(25) of the Indian Arms Act, Section 7 of the Criminal Law Amendment Act and Section 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999.
3. The learned counsel for the applicant makes four submissions. First, the applicant is juvenile and there is a dispute about age

mentioned in the FIR; second, the order granting approval for invoking provisions of MCOC is illegal for the reason that while invoking the provisions of MCOC against the gang leader in earlier offence same offences were considered as relied upon in the present matter while invoking MCOC ; third, the applicant was released on bail, however, before furnishing surety he was taken into custody for the reason that the MCOC provisions were invoked against the applicant and fourth, the injuries shown in the injury certificate are simple in nature and therefore, section 307 will not apply.

4. As far as second submission is concerned, the applicant is having separate remedy to raise the said challenge. At this stage, as far as dispute about the age of the applicant is concerned, sufficient material is brought on record by the prosecution to show he is not the juvenile.

5. Certain documents as regard age of the applicant are pointed out by the learned counsel for the applicant. However, they are not sufficient to prima facie hold contrary to the age brought on record by the prosecution.

6. As far as third submission is concerned, nothing wrong is committed in taking the custody of the applicant after invoking the provisions of MCOC Act.

7. Now moving to the fourth submission, no doubt the injury certificate shows that the injury is simple. However, there is sufficient evidence to show the complicity of the applicant in the alleged offence. There is sufficient material which supports the case of the prosecution that the applicant and other co-accused tried to create terror in the

locality. If this fact is considered coupled with the fact that there are four antecedents against the applicant out of which two are common with the gang and two were committed individually by the applicant, there is every likelihood that if the applicant is released on bail he may commit the similar offence.

8. Furthermore, considering the evidence available on record it cannot be said that there is a reasonable ground to believe that the applicant is involved in the alleged offence.

9. In the circumstances, the application is rejected.

10. Liberty is granted to the applicant to avail remedies under the law that he is Juvenile or order under MCOC is illegal.

(ANIL S. KILOR, J)