

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

CRIMINAL BAIL APPLICATION NO. 1321 OF 2024

Nilesh Parshuram Arekar

...Applicant

Vs.

The State of Maharashtra

...Respondent

Ms. Bhagyesha Kurane, Advocate for Applicant.

Mrs. Geeta P. Mulekar, APP for State-Respondent.

CORAM:- ANIL S. KILOR, J.

DATED:- 5th AUGUST, 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. 138 of 2021 registered Neral Police Station, Dist. Raigad, for the offences punishable under Sections 392, 394, 452 and 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 3(1)(ii), 3(2) and 3(4) of Maharashtra Control of Organized Crimes Act, 1999.

3) The learned Counsel for the applicant submits that there are many discrepancies in the statements of witnesses, and further identification parade is doubtful as there is a possibility that while producing the present applicant and co-accused before the Magistrate in some other

offence, they were seen by the witness, who identified the applicant. It is further argued that the faces of the accused persons were covered by masks, and therefore it is difficult to identify the accused in the present matter. It is therefore prayed that since the charge-sheet has been filed and the applicant is in jail from 3 years, he may be released on bail. It is further argued that as far as antecedents are concerned, during the period of 20 days, 4 offences were registered against the applicant, which also create doubt about the involvement of the applicant in the said offences. She therefore prays for grant of bail.

4) On the other hand, the learned APP strongly opposed the application, it is pointed out that there are 11 antecedents against the applicant of similar nature. It is further argued that the provisions of MCOC Act, 1999 have been invoked in the present matter. It is pointed out that the statements of witnesses support the prosecution case, and since applicant was identified, and furthermore, since the CCTV footage is available, there is sufficient evidence to show the prima facie involvement of the applicant.

5) The learned Counsel for the applicant states that the CCTV footage is not sufficient to show the involvement of the applicant. It is further submitted that this is the only offence common with the syndicate and there is no other offence with the syndicate.

6) Having gone through the charge-sheet and considering the material collected by the Investigating Officer during the investigation, I am of the opinion that there is sufficient material against the applicant.

7) The applicant was identified by the witness. Furthermore, CCTV footage is there to show prima facie involvement of the applicant.

8) In addition to this, there are antecedents of similar nature, and, therefore, though there are some discrepancies in the material collected by the Investigating Officer and though this is the first crime alleged to have committed by the applicant along with the syndicate, I am of the opinion that there is no reasonable ground to believe that the applicant is not guilty of the alleged offence. Furthermore, considering the antecedents, there is every likelihood that if the applicant is released on bail, he may commit the similar offence. In that view of the matter, the application is rejected.

9) The application is rejected and disposed of.

[ANIL S. KILOR, J.]