

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2185 OF 2024

Ajay @ Taklya Raju Pawar ... Applicant
vs.
State of Maharashtra ... Respondent

Mr. Chetan S. Damre, Advocate for Applicant.

Mr. Pandurang H. Gaikwad, APP for State-Respondent.

PSI B.B. Khade, Igatpuri Police Station, present.

CORAM:- ANIL S. KILOR, J.

DATED:- 1st OCTOBER 2024

PC:-

1) By this application under Section 439 of the Code of Criminal Procedure the Applicant is seeking bail in Crime No.I-101/2020 registered with Igatpuri Police Station, District- Nashik, for the offences punishable under Sections 302, 120(b) read with Section 34 of the Indian Penal Code, 1860 [for short "IPC"] and Sections 3(1) (ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 [for short "MCOCA"].

2) Learned counsel for the Applicant submitted that the Applicant is in jail from last four years. He further argued that the Applicant was not present on the spot when the incident took place. He further submits that though the informant named the Applicant, but he is not the eyewitness to the incident. He, therefore, accordingly prays for grant of bail.

3) On the other hand, learned APP strongly opposed the Application and points out CCTV footage of Igatpuri Railway Station, wherein, it was noticed that the Applicant and other accused were together and after leaving the railway station within 20 minutes of the offence was committed. Furthermore, the informant has named the Applicant and attributed specific role.

4) Having gone through the charge-sheet and the relevant material available on record, it is evident that the provisions of the MCOCA have been invoked against the Applicant. Though it is the argument of learned counsel for the Applicant that sanction is not proper, however, to raise a challenge to the legality of it, a remedy is available which has not been availed. Furthermore, as far as alibi is concerned, it is a matter of trial.

5) From the CCTV footage collected by the Investigating Officer, it is evident that the Applicant was seen at the railway station along with

other accused persons 20 minutes before the incident. Moreover, there are antecedents against the Applicant. Including the present offence, there is one more offence committed by the Applicant along with the gang.

6) Since, the offence is serious as the provisions of MCOCA have been invoked against the Applicant, considering the nature of evidence available on record, I am of the opinion that the Applicant is not entitled for grant of bail and accordingly it is rejected.

7) At this stage, learned counsel for the Applicant submits that considering the period of incarceration of the Applicant, liberty may be granted to Applicant to move afresh, if there is no progress in trial in the near future.

8) Considering the period of incarceration of the Applicant, liberty is granted to the Applicant to apply afresh after one year, if there is no progress in trial.

[ANIL S. KILOR, J.]

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