

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

CRIMINAL BAIL APPLICATION NO. 3070 OF 2024

Sandesh Kanha Andher

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Abhinay Dubey, Advocate for Applicant.

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

CORAM:- ANIL S. KILOR, J.

DATED:- 29th NOVEMBER, 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. 0132 of 2021 registered with Talasari Police Station, Dist.- Palghar for the offences punishable under Sections 392 r/w 34 of the Indian Penal Code, 1860 and Section 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act (for short, 'MCOC', Act)

3) Having gone through the charge-sheet and the relevant material collected by the IO during the investigation more particularly the FIR, it is evident that prima-facie Section 392 does not apply in the present matter. The application is being opposed by the learned APP on the

ground that the provisions of MCOC have been invoked and there are three antecedents against the applicant common with the gang. It is further pointed out that there are eleven antecedents against the gang leader.

4) As I have observed that Section 392, an offence relating to robbery will not apply. But considering the allegations in the FIR it is a case of theft.

5) In the circumstances, considering the period of incarceration of the applicant i.e three years, I am of the opinion that since he has undergone substantive period of incarceration and as there is unlikelihood that the trial will be concluded in near future, the applicant is entitled for grant of bail.

6) However, considering the apprehension expressed by the learned APP that the applicant may commit the similar offence if he is released on bail. The learned counsel for the applicant, on instruction, makes a statement that the applicant is ready to abide by any condition including not to enter into territorial jurisdiction of District Palghar.

7) Accordingly, I pass the following order.

ORDER

(i) The Bail Application is allowed;

(ii) It is directed that the Applicant shall be released on bail in Crime No. 0132 of 2021 registered with Talasari Police Station, Dist.- Palghar for the offences punishable under Sections 392 r/w 34 of the Indian Penal Code, 1860 and Section 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act (for short, 'MCOC', Act), on furnishing PR. Bond of

Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount;

iii The applicant shall not enter into the territorial jurisdiction of Dist: Palghar, till the conclusion of the trial except on the date of trial;

iv. The applicant shall provide his address and name of the nearby police station to the I.O, which he shall attend the said Police Station on 1st and 16th day of every month between 10.00 am to 11.00 am, till the conclusion of the trial except on the date of trial;

v. 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;

vi. Liberty is granted to the State to apply cancellation of bail if the applicant commits similar offence.;

vii. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.

Application stands disposed of, accordingly.

[ANIL S. KILOR, J.]