

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2709 OF 2024

Ganpat Jawaharlal Sharma

.....Applicant

VERSUS

The State of Maharashtra

.....Respondent

Mr. Ganesh Misal a/w Mr. Sunil Dude, Mr. Rohit Chavan and Mr. Mahesh Bhati
i/b Mr. Vishal Kale for Applicant.

Ms. Rutuja Ambekar, APP for Respondent-State.

Mr. G.S. Dhage, P.S.I. Sanghi Police Station, Pimpri Chinchwad, present.

CORAM : MANISH PITALE, J.

DATE : OCTOBER 07, 2024

P.C. :

1. Heard, learned Counsel for the Applicant and learned APP for the State.

2. At the outset the learned APP submits that in the present case offenses under the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act) have also been invoked and therefore, it would be necessary to file Reply-Affidavit. But, the learned Counsel for the Applicant is pressing for interim relief.

3. The learned Counsel for the Applicant has tendered a chart showing nine First Information Reports initially against some unknown persons and thereafter the name of the Applicant being added as an accused person. It is submitted that the Applicant is a Jeweller doing the aforesaid business for considerable number of years. It is his case that he knows the family of co-accused Akshay Murkute for at least 10 years and being unaware of the background that the said Akshay Murkute was member of some gang, the Applicant had purchased gold ornaments from Akshay Murkute and his family.

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4. It is submitted that in the present case at the most, offence under Section 411 of the Indian Penal Code may be invoked, which is punishable only by imprisonment for upto three years.

5. It is submitted that in most of the cases, the Applicant has been granted bail and in one case he has been granted protection of anticipatory bail. It is emphasized that in the present case, the Applicant was actually taken into custody and thereafter, he was granted regular bail by order dated 21st December 2023. It is only after the provisions of MCOC Act being invoked in terms of approval order issued by the Competent Authority on 28th December 2023, that the Investigating Authority is seeking to arrest the Applicant again.

6. It is emphasized that in the proceeding dated 20th December 2023 before the concerned Magistrate, concerning remand of the Applicant, it is recorded that recoveries have been already been made. In such a situation, it is submitted that merely because the provisions of the MCOC Act have now been invoked, the Investigating Authority cannot harass the Applicant by insisting upon again arresting him. He is ready to cooperate with any further investigation that the Investigating Authority may contemplate. It is submitted that all the First Information Reports in the present case have been registered in the police station of Districts Pune and Pimpri Chinchwad between August 2023 and November 2023, wherein the only role attributed to the Applicant is that the alleged stolen jewellery was ultimately sold to him.

7. The learned APP has vehemently opposed the the present Application or grant of interim relief. It is submitted that the allegations in the present case are serious and provisions of the MCOC Act having been invoked, there is no question of granting interim relief to the Applicant. It is highlighted that warrant has already been issued by the Magistrate and therefore, this Application ought not to be entertained. According to the learned APP, there is material change in the present case after the regular

bail granted to the Applicant in the form of invocation of provisions of MCOC Act, which disentitle the Applicant from relief of anticipatory bail.

8. Insofar as the present case is concerned, the Applicant is seeking protection of arrest in connection with First Information Report No.0547 of 2023 dated 18/10/2023 registered at Sangavi Police Station, District Pimpri-Chinchwad for the offences punishable under Section 392 read with 34 of the Indian Penal Code. Initially the First Information Report was registered against unknown persons, but during the course of investigation, the role of the accused persons including Applicant came to light. Accordingly, the Applicant was arrested and he was remanded to police custody. Thereafter, the Applicant having moved an application for grant of bail, the same was allowed in terms of the aforesaid order dated 21st December 2023. A perusal of the proceedings dated 21st December 2023 before the concerned Magistrate and the order granting regular bail to the Applicant by the Sessions Court, shows that the recovery having been made was one of the factors taken into consideration while granting regular bail to the Applicant.

9. *Prima facie*, it appears that even though the name of the Applicant has featured in as many as nine First Information Reports registered between August 2023 and November 2023, in various police stations in Districts Pune and Pimpri-Chinchwad, the principal allegation against the Applicant is that the stolen jewellery has found its way to him and his shop. In most of the cases, the Applicant has been granted regular bail and in one case he was granted anticipatory bail.

10. It is only after the Competent Authority passed order approving invocation of the provisions of the MCOC Act on 28th December 2023, that the Investigating Authority appears to be insisting upon arrest of the Applicant again. This is evident from the document placed on record at pages 84 to 88 of the present Application.

11. This Court is of the opinion that considering the nature of allegations leveled against the Applicant and the fact that he was enlarged on regular bail, even in respect of the subject First Information Report, only because the provisions of the MCOC Act have now been invoked, appears to be the basis for insisting by the Investigating Authority to again arrest of the Applicant.

12. So long as the Applicant is ready to co-operate with further investigation and there is nothing to indicate that he has misused the liberty granted to him in terms of the order granting him regular bail, this Court inclined to grant interim relief to the Applicant.

13. It would be appropriate that the Investigating Authority places all relevant documents along with its Reply Affidavit in the present Application so that the Application can be finally decided.

14. The Respondent is granted four weeks time to file Reply Affidavit along with relevant documents.

15. Therefore there shall be interim order in the following terms:

A. Till the next date, in the event the Applicant is arrested in connection with the First Information Report No.0547 of 2023 dated 18/10/2023 registered at Sangavi Police Station, District Pimpri-Chinchwad, he shall be released on bail on furnishing Rs.50,000/- (Rupees Fifty Thousand only) with one or two sureties in the like amount;

B. The Applicant shall remain present before the investigating officer on 9th October 2024 and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;

C. The Applicant shall not influence the informant, witness or any person concerned with the case and he shall not tamper with the evidence.

D. In the event the Applicant violates any of the above conditions, this interim order will be liable to be recalled.

16. List the Application for further consideration on 19th November 2024, high on board.

(MANISH PITALE, J.)

Arun Sankpal