

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

**INTERIM APPLICATION NO. 3110 OF 2024
IN
CRIMINAL APPEAL NO. 838 OF 2024**

Amit Chandrakant Ghadge ... Applicant
Versus
The State of Maharashtra and Anr. ... Respondents

**WITH
INTERIM APPLICATION NO. 3111 OF 2024
IN
CRIMINAL APPEAL NO. 840 OF 2024**

Ashutosh @ Pinkya Ashok Butte-Patil ... Applicant
Versus
The State of Maharashtra and Anr. ... Respondents

**WITH
INTERIM APPLICATION NO. 3501 OF 2024
IN
CRIMINAL APPEAL NO.836 OF 2024**

1. Anil Tukaram Somwanshi
2. Anil Subhash Rakh ... Applicants
Versus
The State of Maharashtra ... Respondent

Mr. Aniket Vagal a/w Sanket Bhowad, Kunal N. Pednekar, for the Applicant in IA No. 3110 of 2024.

Mr. Shirish Gupte, Senior Advocate a/w Mr. Aniket Vagal, Sanket Bhowad, Kunal Pednekar, for the Applicant in IA No. 3111 of 2024.

Mr. Sachin Deokar a/w Mr. Vignesh Ashokan, for the Applicant in IA No. 3501 of 2024.

Mr. V. B. Konde Deshmukh, Addl. PP, for the Respondent – State.

Mr. Venkatesh Shinde a/w Mr. Ishan Paradkar, for the Respondent No.2 in All the Interim Applications.

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 24th SEPTEMBER, 2024

P. C. :

1 Heard learned counsel for the parties.

2 By these applications, the applicants seek suspension of their sentences and enlargement on bail, pending the hearing and final disposal of their aforesaid appeals.

3 The applicant in Interim Application No. 3110 of 2024 is original accused No.10; the applicant in Interim Application No. 3111 of 2024 is original accused No. 5; and, the applicants in Interim Application No. 3501 of 2024 are original accused Nos. 2 and 3 respectively.

4 The aforesaid applicants along with other co-accused have been convicted by the learned Special Judge, MCOC Act, Pune, by judgment and order dated 16th July, 2024 for the offences punishable under Sections 302, 352, 143, 147, 148, 149 of the Indian Penal Code; Section 4(25) of the Indian Arms Act; Section 37(1) r/w section 135 of the Maharashtra Police Act; and Section 3(1)(i), 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crime Act. For the offence punishable under Section 302 and one of the Sections of the MCOCA, the applicants have been sentenced to suffer rigorous imprisonment for life.

5 Perused the papers. The prosecution case essentially rests on the evidence of two eye witnesses i.e. PW 5-Manoj Maruti Kadam and PW 6-Sandip Eknath Chavan. Having perused the evidence of PW 5- Manoj Kadam, we do not find that the said witness had seen the actual assault in question or witnessed the incident of assault. As far as PW 6-Sandip Chavan is concerned, he is a distant relative of deceased- Sachin. His statement was recorded on 4th October, 2014, after almost 8 to 9 days of the incident and supplementary statement on 11th January, 2015. The evidence of PW 6 primia facie shows

that despite several opportunities he had not disclosed the fact of witnessing the incident till the police recorded his statement on 4th October, 2014. Admittedly, no confessional statements were recorded under Section 18 of the MCOC Act. It is not in dispute that one of the applicants is in custody for more than 8 years and others, for more than 9 years. Since the applicants' appeal is of 2024, the same is not likely to be heard in the immediate near future.

6 According to the learned Counsel for respondent No.2, the witnesses and the complainant apprehend danger to their lives from the applicants since, the applicants belong to the organized crime syndicate. Learned Addl. P. P. also submits that the applicants herein-above have antecedents, although in some of the the cases they have been acquitted.

7 Learned Counsel for the applicants states that the applicants are ready and willing to stay outside the Pune District i.e. for one year in order to dispel the fear of the complainant / witnesses. Statement accepted.

8 Accordingly, the applications are allowed and the applicants' sentences are suspended and they are enlarged on bail, pending the hearing and final disposal of their aforesaid appeals, on the following terms and conditions:-

ORDER

- i) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- each with one or more local sureties in the like amount;
- ii) The applicants shall not enter the jurisdiction of Pune District for one year from the date of their release;
- iii) The applicants during the said period i.e. one year shall attend the concerned police station where they would be residing i.e. on first Saturday of every month;

- iv) After one year, the applicants are permitted to enter the Pune District, however, the applicants shall report the Hadapsar Police Station, Pune, on the first Saturday of every month between 10:00 a.m. to 2:00 p.m.;
- v) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vi) Needless to state, that upon breach of any of the conditions, it is always open to the prosecution to file an application seeking cancellation of the applicants' bail;

9 The Applications are allowed in the aforesaid terms and are accordingly disposed of.

10 All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.