IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPLN) NO.133/2022
The State of Maharashtra, through the Assistant Commissioner of Police, Ajani Division, Nagpur
..vs..
Ikbal @ Igga Khan s/o Aziz Khan

WITH

CRIMINAL APPLICATION (APPLN) NO.49/2023
Amjad Hussain s/o Gulam Hussain
..vs..
The State of Maharashtra, through the Assistant Commissioner of Police, Ajani Division, Nagpur, District Nagpur and anr

Office Notes, Office Memoranda of Coram, appearances, Court orders or directions and Registrar's orders	Court's or Judge's Order

APPLN No.133/2022
Mrs.H.N.Prabhu, Additional Public Prosecutor for the Applicant/State.
Shri Anil S.Mardikar, Senior Counsel assisted by Shri Dipesh Mehta, Advocate for the Non-applicant/Accused.

APPLN No.49/2023
Shri F.T.Mirza, Senior Counsel assisted by Shri Sameer Khan, Advocate for the Applicant/Complainant.
Shri Anil S.Mardikar, Senior Counsel assisted by Shri Dipesh Mehta, Advocate for Non-applicant No.2/Accused.
Mrs.H.N.Prabhu, Additional Public Prosecutor for NA No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 21/08/2024
PRONOUNCED ON : 09/09/2024

1. Criminal Application No.133/2022 is filed by the State and Criminal Application No.49/2023 is filed by Amjad Hussain s/o Gulam Hussain (the complainant).

2. The said applications under Section 439(2) of the Code of Criminal Procedure are for cancellation of bail granted to Ikbal @ Igga Khan s/o Aziz Khan (the accused), who is the non-applicant and non-applicant No.2 in the said applications respectively, in connection with Crime No.437/2021 registered with the Sakkardara Police Station, Nagpur for offences under Sections 120-B, 212, 216, 384, 386, 447, 504, and 506 of the Indian Penal Code read with 3(1)(ii), 3(2), 3(3), and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (the MCOC Act).

3. The complainant lodged a report on 31.8.2021 against the accused and other co-accused alleging that he is resident of Tajbagh, Sakkardara, Nagpur and he is having his house opposite to office of the Tajbag Old Trust. At the relevant time, "Baba Tajuddin Aouliya" came there and after his death, a Dargah was established in his name. His father and grandfather were working in the said Dargah as Khadims and subsequently he also started working there. Adjacent to his house, there were six shops which were given on rent basis. In the year 1991, his father constructed cement concrete house and out of six shops, in one shop, he was

running PCO and STD Booth. His father was working as Peon in the said Dargah. The accused and his bothers were indulged in illegal possession of property collecting money from shop keepers and restaurant owners of that area. By creating terror in the locality, they used to extort money by threatening people who were raising voice against them. Nine trustees were looking after the work of the trust. However, co-accused Shahjada Khan and Amjad Khan, members of "organized crime syndicate", used to pressurize trustees. Due to the said pressure, six trustees tendered their resignations. Subsequently, the accused and his brothers started threatening shop keepers from whom the complainant was getting rents. The complainant was also pressurized to sell his house and abused in a filthy language. Six shops were forcibly taken in possession and subsequently, it was demolished including house of the complainant. Reason for demolishing the house was for beautification of the Tajbagh Area. Subsequent to that, the trust declared that shops would be allotted to persons who were having shops in the Tajbagh Area. As no shops were allotted, shop owners approached the Collector and, thereafter, a shopping complex was constructed by the Nagpur Improvement Trust and process of allotment of shops began. The complainant was entitled for five shops. However, co-accused Shahjada Khan and Abu Khan changed records of the trust and registered only three shops in the name of the complainant and illegally recorded their names in remaining shops. Thus, the accused and other co-accused were involved in illegal activities and several offences are registered against them. On the basis of the said report, the police registered the crime.

4. During course of investigation, it revealed to investigating officer that the accused and other co-accused are members of "organized crime syndicate" and gang leader is Firoz Khan, who is resident of Tajbagh, Sakkardara. He created terror in minds of local residents by using weapons and various crimes are registered against him. Against the said gang leader, in all 39 offences have been registered. Against the accused, four offences are registered and, therefore, investigating agency has taken a decision to invoke provisions of the MCOC Act and a proposal was forwarded to the competent authority. The competent authority approved the said proposal and granted a sanction to prosecute the accused and other co-accused under provisions of the MCOC Act on 24.1.2021. In view of the order passed by the competent

authority, the MCOC Act are applied against the accused and other co-accused. The accused was arrested on 17.3.2022. After the arrest, the accused applied for grant of bail and he was released on bail on 22.11.2022.

5. Being aggrieved by the order passed by learned Special Judge, Designated under MCOC Act, Nagpur, these applications are filed by the complainant and the State of Maharashtra for cancellation of bail on ground that while releasing the accused on bail, the trial court has not considered rigor under Section 21(4) of the MCOC Act. It was further contended that while releasing the accused on bail, material collected during investigation was not considered and the accused was released on bail by observing that allegations are general in nature and, therefore, it is prayed that the bail granted to the accused deserves to be cancelled.

6. Heard learned Senior Counsel Shri F.T.Mirza for the complainant, learned Senior Counsel Shri Anil S.Mardikar for the accused, and learned Additional Public Prosecutor Mrs.H.N.Prabhu for the State.

7. Learned Senior Counsel Shri F.T.Mirza for the complainant, submitted that rigor under Section 21(4) of the MCOC Act was not considered by the trial court. The provisions of the MCOC Act are applied against the accused. The accused can be released on bail only when the court comes to conclusion that the accused is not guilty of the offence and there is no possibility of being involved in other crime if the accused is released on bail. Subsequent offences are registered against the accused. Moreover, crime chart shows that on the date of the application of the MCOC Act, four offences are registered against the accused and out of which, in two crimes, chargesheets are filed against the accused in which cognizance was taken. Thus, there is compliance of provisions in view of definitions given under the MCOC Act for unlawful activities. As the trial court has ignored the relevant material connecting the accused with the alleged offence, the bail granted to the accused deserves to be cancelled.

8. Learned Additional Public Prosecutor for the State endorsed the same contentions made by learned Senior Counsel Shri F.T.Mirza for the complainant and submitted that there are criminal antecedents against the accused. Crime Chart shows that

four offences are registered against the accused and out of which, in two crimes, chargesheets are filed against the accused in which cognizance was taken. Thus, there is a compliance to attract definitions of "continuing unlawful activity" within meaning of Section 2(1)(d) of the MCOC Act. She submitted that the trial court has ignored the relevant material and also not considered rigor under Section 21(4) of the MCOC Act. Lastly, she prayed that the bail granted to the accused be cancelled.

9. In support of her contentions, learned Additional Public Prosecutor for the State placed reliance on following decisions:

> **1. Govind Sakharam Ubhe vs. State of Maharashtra, reported in 2009 ALL MR (Cri) 1903**, and
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> **2. Ranjitsing Brahmajeetsing Sharma vs. State of Maharashtra and another, reported in (2005)5 SCC 294.**

10. *Per contra*, learned Senior Counsel Shri Anil S.Mardikar for the accused submitted that the accused was released on bail by the trial court on 22.11.2022. Since releasing of the accused on bail, one year and ten months have already been elapsed. There is no complaint of misuse of liberty granted to the

accused. These applications for cancellation of the bail are after four months. The trial in the matter is yet not commenced. Learned Senior Counsel submitted that learned Senior Counsel for the complainant has not clarified which relevant material is ignored by the trial court. There is nothing on record to show that the order passed by the trial court is perverse. Rigor under Section 21(4) of the MCOC Act does not apply. As far as ingredients of offence under Section 3 of the MCOC Act are concerned, the prosecution has to show that the accused was member of the "organized crime syndicate" and on the date of the First Information Report, more than one chargesheets have been filed before the competent court within preceding period of ten years and the court has taken cognizance of such offence. For an activity to be a `continuing unlawful activity', a) the activity must be prohibited by law; b) it must be a cognizable offence punishable with imprisonment of three years or more; c) it must be undertaken singly or jointly; d) it must be undertaken as a member of an "organized crime syndicate" or on behalf of such syndicate e) in respect of which more than one chargesheet have been filed before a competent court. Learned Senior Counsel submitted that as far as other co-accused Amjad Khan is concerned, there were two chargesheets against the accused on the date of lodging of the First Information Report. A plausible view is taken by the trial court, which cannot be interfered with.

11. In support of his contentions, learned Senior Counsel Shri Anil S.Mardikar for the accused placed reliance on following decisions:

> **1. Criminal Application (APPLN) No.44/2020 and other connected applications (Ravindra s/o Shrinivasrao Shinde vs. The State of Maharashtra, through its Police Station Officer, P.S.Ramnagar, Chandrapur, Taluka and District Chandrapur and anr) decided by this court on 1.7.2024;**
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> **2. Prasad Shrikant Purohit vs. State of Maharashtra and another, reported in (2015)7 SCC 440;**
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> **3. Somsay Dalasay Madvi and another vs. National Investigation Agency, (through FIR No.RC-02/2019/NIA/MUM arising from C.R.No.19 of 2019 of Purada Police Station, Gadchiroli, Maharashtra and another), reported in 2024 SCC OnLine Bom 1622, and**
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> **4. Mahipal Singh vs. Central Bureau of Investigation and another, reported in (2014)11 SCC 282.**

12. Having heard learned Senior Counsel appearing for respective parties and learned Additional Public Prosecutor for the

State, it is necessary to see the law laid down by the Honourable Apex Court as regards cancellation of bail.

13. The Honourable Apex Court, in the case of **Myakala Dharamarajam and ors vs. The State of Telangana and anr, reported in 2020 (2) SCC 743,** held that it is trite law that cancellation of bail can be done in cases where order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating *prima facie* involvement of accused or takes into account irrelevant material, which has no relevance to question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail.

14. The Honourable Apex Court, in the case of **Deepak Yadav vs. State of Uttar Pradesh, reported in 2023 2 Mh.L.J. (Cri) SC 196,** held that there is certainly no straight jacket formula which exists for courts to assess an application for grant or rejection of bail but the determination of whether a case is fit for the grant of bail involves balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the accused are

important. The Honourable Apex Court laid down illustrative circumstances where bail can be cancelled :- a) where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record; b) where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is *prima facie* misuse of position and power over the victim; c) where the past criminal record and conduct of the accused is completely ignored while granting bail; d) where bail has been granted on untenable grounds; e) where serious discrepancies are found in the order granting bail thereby causing prejudice to justice; f) where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified, and g) when the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.

15. In the light of the well settled legal position, if evidence collected by the investigating agency is perused, it is alleged that the accused was member of the “organized crime

syndicate" and in pursuance of the common object of the said syndicate, he was involved in the crime committed for pecuniary gain.

16. Before going into the controversy involved in present applications, it is necessary to see certain provisions of the MCOC Act and its preamble. The preamble states that it is an Act to make special provisions for prevention and control of, and for coping with the criminal activity by "organized crime syndicate" or gang, and for matters connected therewith and incidental thereto. The MCOC Act, states the preamble, makes special provisions for prevention and control of, for coping with, criminal activity by "organized crime syndicate" or gang. Essentially, therefore, the MCOC Act targets the unlawful activities of the "organized crime syndicate". The objects and statements of the MCOC Act show that organized crime has for quite some years come up as a very serious threat to the society. It knows no national boundaries and is fueled by illegal wealth generated by contract, killing, extortion, smuggling in contrabands, illegal trade in narcotics kidnappings for ransom, collection of protection money and money laundering, etc. The illegal wealth and black money generated by the

organized crime being very huge, it has had serious adverse effect on our economy. It was seen that the "organized crime syndicate" made a common cause with terrorist gangs and foster terrorism which extend beyond the national boundaries. There was reason to believe that organized criminal gangs have been operating in the State and, thus, there was immediate need to curb their activities.

17. The legislatures felt existing legal framework, i.e. the penal and procedural laws and the adjudicatory system, was found to be rather inadequate to curb or control the menace of organised crime. Government, therefore, decided to enact a special law with stringent and deterrent provisions including in certain circumstances power to intercept wire, electronic or oral communication to control the menace of the organised crime. It is the purpose of this Act to achieve these objects.

18. Section 2(1)(f) of the MCOC Act defines "organized crime syndicate' to mean a group of two or more persons who, acting singly or collectively, as a syndicate or gang indulged in activities of organized crime.

19. Section 2(1)(e) of the MCOC Act defines “organised crime“ means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency.

20. The definition of “continuing unlawful activity” within meaning of Section 2(1)(d) states an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three or more, undertaken either singly or jointly, as a member of “organized crime syndicate” or on behalf of such syndicate in respect of which more than one chargesheets have been filed before a competent court within the preceding the period of ten years and that court has taken cognizance of such offence.

21. Thus, for an activity to be a “continuing unlawful activity”, a) the activity must be prohibited by law; b) it must be a cognizable offence punishable with imprisonment of three years or

more; c) it must be undertaken singly or jointly; d) it must be undertaken as a member of an "organized crime syndicate" or on behalf of such syndicate, and e) in respect of which more than one charge- sheet have been filed before a competent court. Therefore, the MCOC Act contemplates a situation where a group of persons as members of "organized crime syndicate" indulge in organized crime. That is, they indulge in use of violence, threats of violence, intimidation, etc. to gain pecuniary benefit or undue economic or other advantage for themselves or any other person. These activities as per the definition of organized crime are "continuing unlawful activity" prohibited by law.

22. This Court in the case of **Gulab Jethanand Khemnani vs. State of Maharashtra, reported in 2007(2) Mh.L.J. (Cri) 538** in paragraph No.37 has defined "continuing unlawful activity". This court observed that the members of the crime syndicate operate either singly or jointly in commission of organized crime. They operate in different modules. A person may be a part of the module which jointly undertakes an organized crime or he may singly as a member of the "organized crime syndicate" or on behalf of such syndicate undertake an organized crime. In both the

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situations, the MCOC Act can be applied. It is the membership of the "organized crime syndicate" which makes a person liable under the MCOC Act. This is evident from section 3(4) of the MCOC Act which states that any person who is a member of an "organized crime syndicate" shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine, subject to a minimum of fine of Rs.5 lacs. It is further held that what is important is the nexus or the link of the person with "organized crime syndicate". The link with the "organized crime syndicate" is the crux of the term "continuing unlawful activity". If this link is not established, that person cannot be roped in.

By giving hypothetical examples, it is held that what is contemplated under Section 2(1)(d) of the MCOC Act is that activities prohibited by law for the time being in force which are punishable as described therein have been undertaken either singly or jointly as a member of "organized crime syndicate" and in respect of which more than one charge-sheets have been filed. Stress is on the unlawful activities committed by the "organized crime syndicate". Requirement of one or more charge-sheet is qua the unlawful activities of the "organized crime syndicate".

This court further held that a person need not necessarily be a member of the organised crime syndicate/gang; and yet be liable to be proceeded for offence of being party to a conspiracy by virtue of Section 120-B of Indian Penal Code read with Section 3(2) read with section 2(1)(a) of the MCOC Act. It is held that it is well established that there can be no direct evidence of conspiracy. Ordinarily, conspiracy is to be inferred from different set of established circumstances. The fact that at the relevant time, there was no other criminal case or trial pending against him in respect of a specified cognizable offence and Court not having taken cognizance thereof, will not absolve such person from the alleged offence of the MCOC Act by virtue of Section 120-B of Indian Penal Code read with Section 3(2) and Section 2(1)(a) of MCOC Act.

23. In the light of the above well settled legal position and provisions enumerated therein, if facts of the present case and the material collected during investigation are considered, it reveals that the First Information Report was lodged on 31.8.2021. Thus,

the complainant did not lodge the report in respect of extortion since there was a terror created by the co-accused. The evidence collected shows that the First Information Report was not lodged promptly. The fact, that the First Information Report was not lodged promptly, is required to be appreciated in the light of the fact that several witnesses, whose statements were recorded, disclosed about involvement of the co-accused in "continuous unlawful activities".

24. As far as the accused is concerned, statements recorded during investigation do not disclose that either he created a terror in the vicinity or extracted money from residents who resided there. By taking cognizance of the First Information Report lodged by the complainant, statement of the complainant was recorded and it revealed during the investigation to the investigation officer that the accused is member of the "organized crime syndicate" under the leadership of one Firoz Khan. It was alleged that the complainant was getting rent from six shops which were near to his house. The shops were taken in possession by the co-accused. Though the Collector declared that persons, having shops in the said area, would get shops, but only three

shops were allotted to the complainant and other shops were forcibly taken by members of the “organized crime syndicate”. The said shops were kept by co-accused Shahjada Khan. During investigation, it further revealed to the investigating officer that the co-accused are not only involved in “continuous unlawful activities”, but also they accumulated movable and immovable properties.

As far as the accused is concerned, there is no evidence collected to show that he accumulated any movable or immovable properties.

As far as co-accused Amjad Khan is concerned, it revealed that he encroached upon the land of “Baba Tajuddin Trust” and accumulated property worth of Rs.51,61,500/- by constructing four bungalows on the said encroached portions.

Insofar as allegations by various witnesses are concerned, general statement is made against the accused. However, no specific role is attributed against him. The involvement of the accused was not there in earlier crimes registered against the co-accused.

25. A statement of a resident of the area viz. Nurjah Begam wd/o German Khan was also recorded. As per her statement, her son was murdered by co-accused, however involvement of the accused was not revealed in that. Even, in statements of the co-accused, which are confessional statements, general allegations are made against the accused.

26. In support of contentions made by learned Senior Counsel Shri Anil S.Mardikar for the accused, that provisions of the MCOC Act are not applicable as requirement of one or more chargesheets against the accused of which competent court has taken cognizance is not fulfilled, he placed reliance on the decision in the case of **Mahipal Singh** *supra* wherein it is held that in order to constitute an offence of organized crime, it has to be established that the accused is involved in "continuing unlawful activity" of the MCOC Act and more than one chargesheets in respect of offence of nature specified under Section 2(1)(d) have been filed against him before competent court within preceding period of ten years and the court has taken cognizance of such cases for invocation of offence of organized crime, ingredients constituting that offence must exist on the date the crime is committed or

detected. Learned Senior Counsel submitted that on the date of registering of the First Information Report, there was no chargesheets more than one against the accused in which the competent court has taken cognizance.

27. Perusal of the material on record shows that in Crime No.428/2021, chargesheet was filed on 30.10.2021. Whereas, in Crime No.429/2021, chargesheet was filed on 27.10.2021. However, the First Information Report in question was lodged on 31.8.2021 and on that day, there were two chargesheets against the accused. This aspect is also considered at the subsequent time by the Honourable Apex Court in the case of **Prasad Shrikant Purohit** *supra* wherein it is held that the definition of 'continuing unlawful activity' under Section 2(1)(d) mainly refers to an activity prohibited by law. The said activity should be a cognizable offence, punishable with imprisonment of three years or more. The commission of such offence should have been undertaken either by an individual singly or by joining with others either as a member of an “organized crime syndicate” or even if as an individual or by joining hands with others even if not as a member of a “organized crime syndicate” such commission of an offence should have been

on behalf of such syndicate. It further states that in order to come within the definition of 'continuing unlawful activity' there should have been more than one charge-sheet filed before a competent Court within the preceding period of 10 years and that the said Court should have taken cognizance of such offence. It is further held that since Section 2(1)(d) uses the expression 'an activity' in the very opening set of expressions, which is prohibited by law, the date of such activity, namely, the third one can be taken as the relevant date for the purpose of finding out the two earlier charge-sheets in the preceding 10 years.

28. As far as the accused is concerned, admittedly, there is no material to show that he is involved in activities committed for pecuniary gain. Admittedly, it is not requirement that chargesheet should be filed against each of members who are members of the “organized crime syndicate”. Though statements of witnesses show association of the accused with other members of the “organized crime syndicate”, general allegations are made against him.

29. The Honourable Apex Court, in **Ranjitsing Brahmajeetsing Sharma** *supra*, observed that in order to invoke

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MCOC Act even if a person may or may not have any direct role to play as regards the commission of an organised crime, if a nexus either with an accused who is a member of an "organised crime syndicate" or with the offence in the nature of an "organised crime" is established that would attract the invocation of Section 3(2) of MCOC Act . Therefore, even if one may not have any direct role to play relating to the commission of an "organised crime", but when the nexus of such person with an accused who is a member of the "organised crime syndicate" or such nexus is related to the offence in the nature of "organised crime" is established by showing his involvement with the accused or the offence in the nature of such "organised crime", that by itself would attract the provisions of MCOC Act.

30. As observed by this court in the case of **Govind Sakharam Ubhe** *supra*, having hypothetical examples, what is contemplated under Section 2(1)(d) of the MCOC Act is that activities prohibited by law for the time being in force which are punishable as described therein have been undertaken either singly or jointly as a member of the “organized crime syndicate” and in respect of which more than one chargesheets have been

filed. Stress is on the unlawful activities committed by the "organized crime syndicate". Requirement of one or more chargesheet is qua the unlawful activities of the "organized crime syndicate".

31. As observed earlier, that the provisions of the MCOC Act are special provisions for prevention and control of, and for coping with the criminal activity by "organized crime syndicate" or gang, the statements and the objects of the Act to control illegal activities of the said gangs. Keeping the above objects and reasons and various principles in mind and statutory provisions of the MCOC Act, if restrictions for the grant of bail and the materials placed by the prosecution are considered, the Honourable Apex Court in the case of **Ranjitsing Brahmajeetsing Sharma** *supra* held that the restrictions on the power of the Court to grant bail should not be pushed too far. If the Court, having regard to the materials brought on record, is satisfied that in all probability he may not be ultimately convicted, an order granting bail may be passed. The satisfaction of the Court as regards his likelihood of not committing an offence while on bail must be construed to mean an offence under the Act and not any offence whatsoever be it a

minor or major offence. If such an expansive meaning is given, even likelihood of commission of an offence under Section 279 of the Indian Penal Code may debar the Court from releasing the accused on bail. A statute, it is trite, should not be interpreted in such a manner as would lead to absurdity. What would further be necessary on the part of the Court is to see the culpability of the accused and his involvement in the commission of an organised crime either directly or indirectly. The Court at the time of considering the application for grant of bail shall consider the question from the angle as to whether he was possessed of the requisite mens rea. Every little omission or commission, negligence or dereliction may not lead to a possibility of his having culpability in the matter which is not the sine qua non for attracting the provisions of MCOC Act. A person in a given situation may not do that which he ought to have done. Section 21(4) of MCOC Act does not make any distinction between an offence which entails punishment of life imprisonment and an imprisonment for a year or two. The question as to whether he is involved in the commission of organized crime or abetment thereof must be judged objectively. The wording of Section 21(4), in our opinion, does not lead to the conclusion that the Court must arrive at a

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positive finding that the applicant for bail has not committed an offence under the Act. The provisions must be construed reasonably. It must be so construed that the Court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. Similarly, the Court will be required to record a finding as to the possibility of his committing a crime after grant of bail. Since it is difficult to predict the future conduct of an accused, the court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence.

32. Though the trial court has not referred rigor under Section 21(4) of the MCOC Act, it has considered that perusal of the entire chargesheet reveals that allegations against the accused are weak. The statements of witnesses are general in nature. The material witnesses are informant and his sister who made general allegations against the accused. There is no whisper about the role of the accused and if the role of the accused is not made out, there is no option of applicability of provisions of the MCOC Act, which

is a plausible view taken by the trial court and, therefore, it cannot be said that the trial court has ignore the relevant material.

33. In the light of the well settled legal position and considerations laid down by the Honourable Apex Court for cancellation of bail, both applications are devoid of merits and liable to be rejected and the same are **rejected**.

Applications stand **disposed of**.

(**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede !!