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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2663/2024 & CRL.M.A. 26216/2024**
MUKESH BHARGAVAPetitioner
Through: **Mr. Chirag Khurana, Advocate.**

versus

COMMISSIONER OF POLICE & ORS.Respondents
Through: **Mr. Amol Sinha, ASC with Mr. Kshitiz Garg, Mr. Ashvini Kumar and Ms. Chavi Lazarus, Advocates for the State.**
SI Vinod Kumar, P.S. Mehrauli.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

% **ORDER**
02.09.2024

By way of the present petition filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure 1973, the petitioner seeks a direction to respondent No.1/Commissioner of Police and respondent No. 2/Special Commissioner of Police to invoke the provisions of the Maharashtra Control of Organised Crime Act, 1999 ('MCOCA') against respondents Nos. 3 and 4, who are *inter-alia* accused in FIR No.681/2019 dated 27.12.2019 registered under sections 406/420/465/34 of the Indian Penal Code, 1860 at P.S.: Mehrauli, Delhi, which was registered at the petitioner's instance.

2. Mr. Chirag Khurana, learned counsel appearing for the petitioner submits, that as would be seen from Annexure-B appended to the present petition there is a long list of FIRs pending against



respondents Nos. 2 and 3, and by reasons thereof the petitioner had sent representation dated 27.07.2024, requesting respondent No.2 to invoke MCOCA against respondents Nos. 3 and 4, but no action has ensued thereof.

3. Mr. Amol Sinha, learned ASC appears for respondents Nos. 1 and 2 on advance copy; and submits, that for one, representation dated 27.07.2024 has been dispatched to respondent No. 2 only on 23.08.2024; and in any event, the threshold for invoking MCOCA is high, which requires consideration and satisfaction of the concerned DCP, with a further approval from the superior officers.
4. In the above circumstances, this Court is not inclined to issue notice on the present petition since the invocation of special statutes, such as MCOCA, is in the discretion of the investigators and the prosecuting agency.
5. Accordingly, the petition stands disposed-of with a short direction to respondents Nos. 1 and 2 to consider the petitioner's representation dated 27.07.2024 and to decide the matter of invocation of MCOCA, in accordance with their protocol and procedures.
6. It is made clear that this court has not expressed any opinion in relation to the prayers made in the present petition.
7. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 2, 2024/MR