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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1300 OF 2024

Vinayak Jagan Salunke

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. Mahesh V. Ghatge, Advocate for the Petitioner
Mr. S. A. Gaikwad, APP for Respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]

DATE : 6th OCTOBER, 2025

ORDER :

1. This Petition, filed under Articles 226 and 227 of the Constitution of India read with Section 482 of the Criminal Procedure Code, seeks transfer of Sessions Case No. 53 of 2024, pending before learned Sessions Judge, Dhule to the Special Court (MCOCA) Dhule and to be tried as part and parcel of Special Case (MCOCA) No. 95 of 2024.

2. Brother of the Petitioner, namely, Shubham Salunke was assaulted by 8 named accused and others on 8th October, 2023, at about 10.45 p.m. with deadly weapons. He succumbed to the injuries, on 9th October, 2023 at 9.50 a.m. The Petitioner, therefore, filed FIR No. 275 of 2023 with Azad Nagar Police

Station, Dhule, for the offence punishable under sections 302, 364, 143, 147, 148, 149, 323, 504, 506, 120-B, of the Indian Penal Code, under sections 4 & 25 of the Arms Act and under sections 135, 37 (1) and (3) of the Maharashtra Police Act, against the Accused persons, alleging that, Accused Vinod Thorat and Harshal Chaudhari have conspired and employed other accused persons to kill Shubham.

3. On 23rd November, 2023, prior approval was granted by Respondent No.2 for investigation of the 9 accused in the said crime under Maharashtra Control of Organized Crime Act (hereinafter for short "MCOC Act"). Respondent No.3 - Investigating Officer filed final Report No. 29 of 2024 on 6th April, 2024 before Special Court (MCOCA), Dhule under sections 302, 364, 143, 147, 148, 149, 323, 504, 506 and 120 B, 109, 75, 201 and 212 of the Indian Penal Code, under section 4 and 25 of the Arms Act, under sections 135, 37 (1) and (3) of the Maharashtra Police Act and under sections 3 (1) (i), 3 (2), 3 (4) of the MCOC Act, against seven accused persons, namely (1) Mahesh Pawar (2) Ganesh Mali (3) Jagdish Chaudhari, (4) Akshay Salve, (5) Jayesh Kharat, (6) Ganesh Patil and (7) Sharad Karke and the case is numbered as Special Case No. 95 of 2024.

4. Respondent No.3 - Investigating Officer filed Final Report

No. 29-A/2024 on 15th April, 2024 in the Court of learned Judicial Magistrate, First Class, Dhule under sections 302, 364, 143, 147, 148, 149, 323, 504, 506, 120-B, 109, 75, 201 and 212 of the Indian Penal Code, under sections 4 and 25 of the Arms Act and under sections 135, 37 (1) and (3) of the Maharashtra Police Act, against three accused persons namely, (1) Harshal Chaudhari (2) Paresh Thorat and (3) Vinod Thorat. Learned Magistrate, committed the case to the Court of Sessions and the same is numbered as Sessions Case No. 53 of 2024. The Petitioner has, therefore, approached this Court for clubbing both the cases together.

5. Heard learned Advocate for the Petitioner and the learned APP for the State.

6. Admittedly, investigation of Crime No. 275 of 2023 has culminated into filing of Final Reports No. 29 of 2024 and 29-A of 2024. It is clear that, since the Accused in Final Report No. 29-A of 2024 could not be prosecuted under the provisions of the MCOC Act, a separate charge sheet is filed against them by the Investigating Officer.

7. In terms of section 223 of the Criminal Procedure Code, persons accused of the same offence, which is committed in the course of the same transaction, are liable to be charged together.

By clubbing both the cases together, no prejudice is likely to be caused to the defence of the Accused persons. To avoid duplication of evidence, it would be in the interest of justice to direct the Special Court to club both the cases together and decide them simultaneously.

8. It is informed by the learned APP that, both the cases are pending before learned District Judge-2 / Additional Sessions Judge, Dhule, who is designated as Special Judge under the MCOC Act.

9. In the result, Criminal Writ Petition is allowed. Special Case No. 95 of 2024 and Sessions Case No. 53 of 2024 are clubbed together. They shall be tried jointly and decided simultaneously.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE