



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

BAIL APPLICATION NO. 2230 OF 2024

Balaji @ Balya S/o. Sambhaji Mahashette.

... Applicant

Versus

The State of Maharashtra.

... Respondent

...
Mr. Suraj Bagal, h/f Mr. Bharat N. Gadegaonkar, Advocates for Applicant.

Mr. P. P. Dawalkar, APP for Respondent / State.
...

CORAM : **SANJAY A. DESHMUKH, J.**

RESERVED ON : 21st August, 2025.

PRONOUNCED ON : 26th September, 2025.

ORDER:

1 Heard both the sides.

2 This application is filed for grant of regular bail in connection with Crime No.0240 of 2022, registered with Umri Police Station, District Nanded, for the offences punishable under Sections 395 and 120(B) of the of the Indian Penal Code, 1860 (for short “the IPC”), under Section 4/25 of the Arms Act, 1959 and under Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (for short “the MCOCA Act”).

3 The informant averred in the report that he is working as a cashier at Vyankatrao Patil Kawale Non-Agricultural Patsanstha, Sindhi, Taluka Umri. On 1st October, 2022, at about 10:00 am, he was in the bank alongwith the bank manager, Sandip Bhagwanrao Dhage, Sunil Shyamrao Kure (Clerk), Pravin Chandrakant Kavale (Clerk), Gangadhar Madhav Suryavanshi and Dnyaneshwar Pandharinath Tablewar (Servants). In between 02:00 pm and 02:20 pm, seven persons entered the bank with their faces covered with handkerchiefs. They were armed with swords and knives. They ran towards the counter where the informant and his colleagues were working. One of them pressed a sword against Sunil Kure and threatened by ordering them to place their mobile phones on the floor. During the scuffle, the sword struck the hand of Sunil Kure, but as he moved his hand, the sword fell on the table. Those persons threatened them and asked them as to where the money is kept ? Thereafter, they turned to the cash counter and took an amount of Rs.2,02,590/- comprising Rs.500, Rs.200, Rs.100 and Rs.50 denominations. Thereafter, they fled from the bank premises. The informant and others came out of the bank and made hue and cry. One of the accused fell down. The informant and others caught hold of him. The remaining accused fled away. On inquiry, the apprehended person stated his name as Manjitsingh Kishansingh Sirpalliware, resident of Nanded. When asked about the

remaining accused persons, he disclosed the name of the applicant and five others. The apprehended accused also said that the fled accused had taken the cash with them. Thereafter, the report was lodged.

4 The learned counsel for the applicant submitted that the provisions of the MCOCA Act are not applicable to this applicant. However, he has been arrested in this crime. By invoking the provisions of the MCOCA Act, the police authority completed the investigation and filed charge-sheet illegally against the applicant. The applicant has no criminal antecedents. No amount is recovered from the applicant. The co-accused are released on bail. Therefore, the applicant is also entitled for bail on the ground of parity. The investigation is over and the custody of the applicant is not necessary. On the disclosure of co-accused, the applicant has been arrested. The report is cryptic and insufficient to identify the applicant. The applicant is not a member of the gang committing criminal activities for monetary gain. Therefore, the MCOCA Act is wrongly invoked against the applicant. He is behind bars since 13th October, 2022. The applicant has roots in the society and he will not flee away from the trial. The trial will take long period. The co-accused is released on bail. He is entitled for parity. The applicant is the breadwinner of the family. His detention may amount to pre-trial conviction. It is lastly prayed to allow

the application.

5 The learned counsel for the applicant is relying on the order in the case of ***Amjad Yusuf Pathan Vs. The State of Maharashtra, (Bail Application No.132 of 2023)*** passed by this Court at Principal Seat on 21st February, 2024, in which it is held that there must be *prima-facie* material to show that applicant is member of organized crime syndicate.

6 The learned APP for the State strongly opposed the application and submitted that the applicant is involved in the serious crime of dacoity. He is a member of an organized crime syndicate as per the MCOCA Act. He has five criminal antecedents. If he is released on bail, the very object of controlling such organised crimes, as contemplated under the MCOCA Act, and the term “control” used in the title of the statute, would be frustrated. Considering the serious nature of the crime and particularly, the MCOCA Act is invoked against the applicant, no case is made out for grant of bail. It is lastly prayed to reject the application.

7 Perused the charge-sheet, particularly, the report and the recovery *Panchanama* of the incriminating articles.

8 The applicant hatched the conspiracy. He is the main accused and the leader of crime syndicate. The evidence material cannot be considered meticulously at this stage. The applicant has not filed any application before the Trial Court stating that the MCOCA Act is not applicable to him. There is prior approval and sanction to prosecute the applicant under the MCOCA Act. The apprehended co-accused has disclosed the name of the present applicant. But there is other material against the applicant. If the term “control” is to be considered in the context of this case alongwith material placed on record, particularly, charge-sheet, it reveals that there is *prima-facie* strong material against the applicant. He is arrested in connection with the serious offence of dacoity. From the entire charge-sheet, it is *prima-facie* established that the applicant is a member of a crime syndicate as defined under the provisions of the MCOCA Act, 1999.

9 Considering all these aspects, the law laid down in the case of ***Amjad Yusuf Pathan*** (supra) is not helpful to the applicant and hence it is not relied upon, as the facts are different and the case is not made out for granting bail on the principle that bail is rule and jail is exception. Therefore, the application deserve to be rejected. Hence, the bail application is rejected.

10 The learned Trial Court is directed to conclude the trial as

expeditiously as possible. However, it is clarified that if any matter is earlier expedited either by the Honourable Supreme Court or this Court, then the Trial Court shall conclude that case first and then proceed further with this trial. Needless to mention that it is a sessions trial and word “sessions” means once it is started it shall not be stopped till it is concluded.

[SANJAY A. DESHMUKH, J.]

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