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

BAIL APPLICATION NO.2243 OF 2024

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Hrishikesh Siddharth Chavan Alias
Watana

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Yash Fadtare i/by Mr. Samay S. Pawar for the applicant.

Mr. Mayur Sonavane, APP for the State.

Mr. Bhosle, P.I., D. B. Marg Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 16, 2025

P.C.:

1. By this application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant is seeking regular bail in connection with M.C.O.C. Special Case No.96 of 2022 arising out of Crime No.703 of 2021 registered with D. B. Marg Police Station, Mumbai, for offences punishable under Sections 392, 323, 506(2), 419, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860, Sections 37(1)(a) and 135 of the Maharashtra Police Act, and Sections 3(1)(ii), 3(2), and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred to as "MCOCA").

2. The brief case of the prosecution is that, on 14th October 2021 at about 8:30 a.m., when the first informant left his house for attending work and reached near Grant Road Station (East), he was accosted by two unknown individuals who arrived on a scooter and gestured him to stop. It is alleged that both individuals alighted from the vehicle, threatened the informant and demanded that he hand over all the money in his possession. On inquiring about their identity, one of them disclosed his name as Hrishikesh Watana and proclaimed himself to be a “big goon” of the locality. Terrified by the threat, the informant raised an alarm, leading to a crowd gathering at the spot.

3. It is further alleged that the present applicant brandished a knife from his trouser pocket and intimidated the bystanders by threatening to kill anyone who dared to intervene. Due to the threat and display of weapon, the people assembled at the spot fled in fear and even the hawkers and shopkeepers in the vicinity shuttered their shops and ran away. Thereafter, the applicant and his co-accused allegedly robbed the informant of ₹1,000/- in cash and a mobile handset. Based on the said incident, the informant lodged a First Information Report with the jurisdictional police station.

4. The applicant came to be arrested on the very same day, i.e., 14th October 2021. His application for bail was rejected by the learned Sessions Judge. Aggrieved thereby, the applicant has approached this Court by way of the present application seeking release on bail.

5. Learned counsel appearing on behalf of the applicant submitted that the alleged incident took place in a busy and crowded locality and, if such a serious incident had indeed occurred as narrated by the prosecution, then the applicant would have certainly been apprehended by the public and handed over to the police at the spot itself. It is contended that there is no cogent or prima facie material on record to indicate that the applicant is involved in the alleged crime or that he is a member of any organised crime syndicate. It is further submitted that the applicant has been falsely implicated in the matter and is languishing in custody since 14th October 2021. The charge-sheet has already been filed and the trial is not likely to conclude in the near future. It is, therefore, urged that the applicant be enlarged on bail, subject to suitable conditions.

6. Per contra, learned APP vehemently opposed the bail application and submitted that the identity of the applicant was disclosed by himself during the commission of the crime, and further, he has been identified by the shopkeepers and other witnesses who were present at the scene. Their statements have been recorded and corroborate the version given by the informant. It is further pointed out that the cash amount and mobile handset of the informant have been recovered at the instance of the applicant. The weapon used in the commission of the offence, namely a knife, and the scooter used in the incident have also been recovered at his instance.

7. It is submitted that a test identification parade was conducted in which the informant and eyewitnesses have

positively identified the applicant. Moreover, the confessional statement of the co-accused recorded under Section 18 of the MCOCA discloses the active role played by the present applicant. It is also brought to the notice of this Court that the applicant has three prior criminal cases registered against him, which clearly indicates his habitual association with criminal activity.

8. Additionally, the call data records (CDR) produced by the investigating agency reveal communication between the applicant and the co-accused as well as their location near the place of incident. The CDR also indicates regular contact between the applicant and the gang leader, which strengthens the prosecution's case that the applicant is part of an organised crime syndicate. Learned APP further contended that in the event of the applicant being enlarged on bail, there is a serious apprehension that he may influence or intimidate the witnesses, thereby hampering the course of justice. Hence, he prayed for rejection of the present application.

9. I have given thoughtful consideration to the submissions advanced on behalf of the applicant and the learned APP for the State. I have also carefully perused the material placed on record, including the charge-sheet, recovery panchanamas, identification parade reports, statements of witnesses, and confessional statements recorded under Section 18 of the MCOCA.

10. At the outset, it is to be noted that the incident in question has occurred in a public place, more particularly at a crowded location near Grant Road Station. The allegations against the

applicant are not only of robbery and criminal intimidation but also of brandishing a deadly weapon to deter public intervention and causing public alarm, thereby facilitating commission of the crime. The allegations further disclose that the applicant projected himself as a notorious criminal in the area, thereby creating a fear psychosis in the mind of the informant and the public.

11. From the charge-sheet, it is evident that the mobile handset and cash amount looted from the informant have been recovered at the instance of the applicant. The scooter allegedly used in the commission of the offence and the knife recovered from the possession of the applicant further corroborate the case of the prosecution. The prosecution has placed on record the statements of eyewitnesses including hawkers and shopkeepers who have identified the applicant and described the overt acts committed by him at the scene of offence.

12. Moreover, the identification of the applicant by the informant and other witnesses in the test identification parade lends further weight to the prosecution case at this prima facie stage. The confessional statement of the co-accused, which is admissible under Section 18 of MCOCA, specifically names the applicant and attributes an active role to him in the organised activity.

13. It is also material to note that the applicant is stated to have criminal antecedents involving three prior offences. The investigation has revealed his communication with other co-accused and with the alleged gang leader. The call detail records

and tower location analysis prima facie demonstrate his proximity to the spot of offence and his involvement in the larger conspiracy.

14. The offence alleged against the applicant not only falls under the penal provisions of the Indian Penal Code but also under the stringent provisions of MCOCA. It is well settled that grant of bail in offences under MCOCA is governed by Section 21(4) of the said Act, which places a statutory embargo on grant of bail unless the Court is satisfied that there are no reasonable grounds for believing that the accused is guilty of such offence and that he is not likely to commit any offence while on bail.

15. Considering the nature and gravity of the offence, the active role ascribed to the applicant, the recoveries effected at his instance, the identification by witnesses, the co-accused's confession, the applicant's criminal antecedents, and the material collected during investigation indicating his nexus with the organised crime syndicate, I am not persuaded to hold at this stage that there are no reasonable grounds for believing that the applicant is not guilty of the alleged offence. The rigours of Section 21(4) of MCOCA, therefore, squarely apply to the present case.

16. Further, considering the apprehension expressed by the prosecution that the applicant may influence or threaten witnesses if released on bail, and the fact that the trial is pending, this Court does not find it appropriate to exercise discretion in favour of the applicant at this stage.

17. ORDER

(i) The Bail Application stands rejected.

(ii) It is, however, clarified that the observations made hereinabove are limited to the consideration of the present bail application and the learned trial Court shall not be influenced by the same while deciding the matter on merits.

(AMIT BORKAR, J.)