

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3383 OF 2024**

Avinash @ Avya Suresh Gample ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Satyavrat Joshi a/w Mr. Yash Fadtare, Advocate for the Applicant.
Mrs. Veera Shinde, A.P.P. for the Respondent – State.
Mr. Shashikant Sawant (A.P.I.), Warje Malwadi, Pune City Police Station, present.

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CORAM : N. R. BORKAR, J.
DATE : 23rd JANUARY, 2025.

P.C.:

1. Leave to correct the name of the applicant in cause title. Necessary amendment shall be carried out forthwith.
2. This is an application for regular bail.
3. The applicant came to be arrested in Crime No. 479 of 2023 registered at Warje Malwadi Police Station, District : Pune, for the offences punishable under Sections 394, 323, 341, 504, 506(2) r/w Section 34 of Indian Penal Code (for short “IPC”), under Section 4(25) of Arms Act, Section 37(1) (3) r/w Section 135 of Maharashtra Police Act and Sections 3(1)(ii) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (for short “MCOC Act”).
4. According to the prosecution, the present applicant is a gang leader of organized crime syndicate. It is alleged that on the date of incident which took place on 19.11.2023, the

present applicant along with other co-accused who were armed with koytas and sticks assaulted the complainant by sticks and blunt side of koyta. It is alleged that they robbed him of Rs.700/-. It is further alleged that they wielded weapons to terrorize the people who were residing in that area.

5. I have heard the learned counsel for the applicant and the learned APP for the Respondent-State.

6. Learned counsel for the applicant submits that the offences under the MCOC Act can be invoked, if the accused is found to be involved in continuing unlawful activity and on the date of incident, more than one charge-sheets have been filed before a competent Court within the preceding ten years and cognizance of offences is taken by the Court. It is submitted that in the present case to invoke the offences under MCOC Act the competent authority has relied upon two crimes, out of which one crime and the crime in present case were registered on the same day. It is submitted that the intent behind such illegal invocation of the offences under MCOC Act is to implicate the applicant in serious offences. In support of the submission, the learned counsel for the applicant has relied upon the decision of Division Bench of this Court dated 11th June, 2024 in Criminal Appeal No.472/2023 with other connected Appeals.

7. The learned counsel for the applicant submits that the injury certificate filed along with charge-sheet would show that the complainant did not sustain any serious injury, and thus possibility of exaggeration of the incident cannot be ruled out. It is submitted that the applicant is in jail for one year and except the offences under the MCOC Act, all the other offences are triable by Magistrate. It is submitted that considering the overall facts and circumstances of the case, the applicant may be released on bail.

8. On the other hand, the learned APP for the Respondent-State submits that the applicant is a gang leader. It is submitted that the applicant is involved in two more crimes of similar nature. It is submitted that if the applicant is released on bail, the possibility of committing the similar offences cannot be ruled.

9. I have perused the charge-sheet. There appears to be substance in the submission of the learned counsel for the applicant in relation to invocation of the offences under the MCOC Act. However, admittedly the applicant is involved in two more crimes of the similar nature. The applicant was armed with koyta. In that view of the matter, I am not inclined to release the applicant on bail. The Application is rejected.

(N. R. BORKAR, J.)