

Amberkar

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

**BAIL APPLICATION NO. 3563 OF 2024**

Reeta Santoshkumar Singh

Applicant

.. (Accused No. 4)

**Versus**

The State of Maharashtra

.. Respondent

**WITH**

**BAIL APPLICATION NO. 2130 OF 2022**

Sameer Solomon Lalzare

Applicant

.. (Accused No. 2)

**Versus**

The State of Maharashtra

.. Respondent

**WITH**

**BAIL APPLICATION NO. 2595 OF 2022**

Lata Dadarao Pawar @ Ayesha Amir Shaikh

Applicant

.. (Accused No. 8)

**Versus**

The State of Maharashtra

.. Respondent

.....

- Mr. Nitin Sejpai a/w Ms. Akshata Desai & Mr. Siddharth Gharat, Advocates for Applicant in BA 3563/24
- Mr. Salvin Kale, Advocate for Applicant in BA 2130/22
- Ms. Anjali Awasthi a/w Ms. Rachana Mahale, Advocates for Applicant in BA 2595/22
- Mr. Mahesh Mule, Special PP a/w Ms. Nidhi Narwekar for Respondent - State
- Mr. Shaikh, PSI, Dadar Railway Station

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**CORAM : MILIND N. JADHAV, J.**

**DATE : APRIL 21, 2025**

**P.C.:**

1. Heard Mr. Sejpal, learned Advocate for Applicant in BA 3563/24; Mr. Kale, learned Advocate for Applicant in BA 2130/22; Ms. Awasthi, learned Advocate for Applicant in BA 2595/22 and Mr. Mule, learned Special PP for Respondent - State and with their able assistance perused the record of the case.
2. Applicants - accused Nos. 2, 4 and 8 have filed the present Applications for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.PC.**") in connection with C.R. No. 286/2021 registered with Dadar Railway Police Station for offences punishable under Sections 387, 392, 195(A), 506(2), 507, 120(B), 384, 385, 212, 224 and 420 of the Indian Penal Code, 1860 (for short, "**IPC**"); under Sections 3(2), 3(3), 3(4), 3(5) and 4 of the Maharashtra Control of Organized Crime Act, 1999 (for short "**MCOC Act**") and under Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014.
3. All three Bail Applications are being disposed of by this common order. There are total 8 accused persons in the present crime. None of the accused persons have been granted bail till date. Accused persons have been arrested on 07.04.2021 or near about that time and have suffered incarceration since then pending trial.

4. *Prima facie*, on perusal of record of the case, it is seen that case of the prosecution is entirely oriented towards and indicting accused No. 1 who is alleged to be the head of the organized crime syndicate and gang leader. Prosecution has filed three separate affidavits in reply in all 3 Applications to oppose the Bail Applications dealing, *inter alia*, the role of the accused persons. They are all identical. What is common in the said affidavits is the role of accused No. 1 being indicted under the stringent provisions of MCOC Act as gang leader of the crime syndicate. Accused Nos. 2, 4, and 8 are alleged to be members of his crime syndicate. Accused No. 4 incidentally is the wife of Accused No.1. First informant - hawker has filed complaint on the basis of an incident of 07.04.2021 in a public place alleging assault by accused No. 1 and subsequent threatening for extortion. Complainant is a hawker at Dadar Bridge and one of the allegation against accused No. 1 purported by some witness statements appended to the Application is that accused No. 1 was collecting regular hafta / protection money for allowing hawkers to hawk their wares in the vicinity of Dadar area / Dadar Bridge.

5. Mr. Sejpal, learned Advocate for Applicant - accused No. 4 in Bail Application No. 3563/24 would submit that from the facts of the case *prima facie* emanating from the affidavit in reply, it can be seen that Applicant - accused No. 4 has played no role whatsoever in

initiation of the crime. She being the wife of Accused No.1 has been indicted on the ground of she being an accomplice of accused No. 1 for having received the money and property from accused No. 1. He would submit that if affidavit dated 04.03.2025 filed by prosecution is considered, role attributed to accused No. 4 is *prima facie* hearsay and in general without any specificity attached to any incident, save and except to submit that on one occasion, accused No. 4 was summoned by prosecution by issuing notice under Section 41-A of the Cr.P.C. and she instead of going for enquiry attempted to evade and run away but was apprehended and therefore Section 224 of IPC has also been imposed against her. He would further submit that even according to prosecution affidavit and as stated therein in paragraph No. 5.8, prosecution desires to examine 250 witnesses which would take a humongous period of time and therefore considering long incarceration of accused No. 4 being a woman, same be considered as a ground for grant of bail.

**6.** Next he would submit that the stringent provisions of MCOC Act and Sections 34 and 35 have been applied even against accused No. 4 and in that context he would submit that in the past 10 years, there has not been any case of indictment or accused No. 4 having been chargesheeted by prosecution to satisfy the twin tests envisaged under the provisions of MCOC Act for invocation of the said provisions. That

apart he would submit that the case of prosecution is *prima facie* based on knowledge of offences committed by accused No. 1 since accused No.4 is his wife but that is merely hearsay without placing on record any incriminating material to corroborate such a serious charge and in any event that would be a matter of trial. He would submit that entire movable and immovable assets and properties of accused No. 1 in the hands of accused No. 4 have been attached by prosecution and therefore there is no question of accused No. 4 dealing with the same after she being released on bail. That apart, he would submit that accused No. 4 is the mother of a special child who is 13 years old for whom she needs to provide care and support which should be considered by the Court for grant of bail.

7. Mr. Kale, learned Advocate for Applicant - accused No. 2 in Bail Application No. 2130/22 and Ms. Awasthi, learned Advocate for Applicant - accused No. 8 in Bail Application No. 2595/22 have submitted that indictment of the said accused persons is solely on the basis of their association with accused No. 1. Insofar as accused No. 2 is concerned, he was accompanying accused No. 1 to his lawyer's office when he was arrested by prosecution and since the past 4 years, he has been incarcerated in prison. Insofar as accused No. 8 is concerned, she is a flower vendor and accusation against her by prosecution is that at times, she has supported accused No. 1 in

attempting to threaten various hawkers at Dadar. *Prima facie* the case of prosecution against these accused i.e. accused Nos. 2 and 8 is based upon recorded witness statements and nothing more.

8. Mr. Mule, learned Special PP appearing for the Respondent - State in all 3 matters has vehemently opposed the present Applications for grant of bail. He would submit that nexus of Applicants with the alleged extortion carried out by accused No. 1 in the area of his operation is such that there is every possibility that Applicants will reoffend themselves after they released on bail. He would further emphasize and submit that if at all the Court is considering grant of bail to the accused persons in the present Applications that should be only after the complainant records his witness action as prosecution witness on behalf of the State since there is every apprehension that complainant may turn hostile if they are released on bail. This submission of Mr. Mule itself on the face of record shows the degree and veracity of the accusation levied by prosecution. Be that as it may, prosecution is free to decide and prove its case in trial. Mr. Mule in his usual fairness would submit that incarceration of Applicants may appeal to the Court since the Applicants before the Court are incarcerated for the past more than 4 years in prison. However he would persuade the Court to consider the nexus of Applicants with accused No. 1. He would submit and draw my attention to the list of

antecedents contained in the chart reflected in the three affidavits in reply filed in the present Applications to show that there are serious antecedents against accused No. 1 and he has been indicted and chargesheeted satisfying the twin conditions of MCOC Act and therefore his associates i.e. the Applicants before me would have to be considered as being indicted in MCOC Act without there being any specific case against them. To that extent, Mr. Sejpal has drawn my attention to the fact that in the past 10 years, there has been no singular case against the accused persons either. Insofar as accused No. 2 is concerned, Mr. Mule would submit that since he was a constant associate and fixture with accused No. 1 there are antecedents against him also and that should be considered by the Court for rejection of bail.

9. After perusing the record of the case, it is seen that *prima facie* the case of prosecution contained in the three affidavits in reply is based upon 11 witness statements which are primarily of some of the hawkers in Dadar area where accused No. 1 was operating and there were complaints against him for extortion. In the witness statements which are appended at page Nos. 23 and 32 of the additional compilation of documents filed on behalf of Respondent - State, it is seen that the said two witnesses have complained about extortion carried out by accused No. 1. However on reading the entire witness

statements, it is *prima facie* seen that there was also a relationship between the parties in respect of certain transactions between them. That apart it is further seen that the prosecution has placed on record an executive summary of investigation into the financial affairs of accused Nos. 1 and 4 the details of which are appended at page Nos. 40 to 49 of the additional compilation. Mr. Mule would submit that entire assets. i.e. movable and immovable properties which are stated therein including all businesses as also movable and immovable assets including bank accounts, LIC policies, fixed deposit receipts have been attached by the prosecution. Though a grievance is made by prosecution that it is Applicants who are attempting to delay the trial, if that be the case, they can take appropriate steps against the Applicants as available to the prosecution in law. Function of the bail Court is to consider the material on record for considering bail.

**10.** Mr. Mule has next placed on record order dated 13.08.2021 passed by the Division Bench of this Court in Writ Petition No. 2632/2024 filed by accused No. 8 to challenge invocation of MCOC Act against the accused person. He would draw my attention to paragraph No. 20 of the said order and would submit that the Division Bench of this Court has *prima facie* concluded therein that "*in the face of this material, which has been unearthed during the course of investigation, we find it rather difficult to accede to the submissions*

*on behalf of the Petitioner that there is no material to establish the link between the Petitioner and the organized crime syndicate". Even today when the matter is argued before me, I have asked Mr. Mule to show me *prima facie* material. In this regard all that Mr. Mule has done is drawn my attention to the 11 witness statements which are appended to the additional compilation of documents and nothing more.*

**11.** The Supreme Court in the case of *Tofan Singh v. State of Tamil Nadu*<sup>1</sup> Court held that statements recorded by NDPS officers could be construed as statements to police officers given their duties and responsibilities in preventing and detecting crime under the NDPS Act. It held that right against self-incrimination and right to privacy under Article 20(3) and Article 21 of the Constitution apply to confessions recorded under Section 67 of the NDPS Act. It also held that officers under the NDPS Act should be construed as 'police officers' under Section 25 of the Evidence Act to prevent coercion in recording confessions and that confessions made before such officers are inadmissible as evidence to protect fundamental rights under Articles 20(3) and 21 of the Constitution.

**12.** In the present case the Witness statements which are sought to be relied upon by Mr. Mule are confessional statements given to the

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<sup>1</sup> (2021) 4 SCC 1

Police Officers and therefore their veracity will have to be proved only in trial. *Prima facie* at the bail stage they are inadmissible for consideration unless proved in accordance with law or by any incriminating corroborative material directly indicting the applicants. In that view of the matter, I am not in agreement with the submissions made by Mr. Mule and therefore considering the aforesaid overall *prima facie* submissions and the precise role attributed to accused Nos. 2, 4 and 8 as delineated herein above and considering their long incarceration, I am of the opinion that Applicants can be released on bail. Concerns expressed by the prosecution can be addressed by imposing appropriate conditions. Hence, Bail Applications are allowed subject to the following terms and conditions:-

- (i) All three Applicants in the above captioned 3 Bail Applications are directed to be released on bail on furnishing PR. Bond in the sum of Rs. 50,000/- each with one or two sureties in the like amount;
- (ii) Before their actual release from jail, Applicants shall furnish their addresses where they propose to reside after their release from jail to the concerned Police Station and also to the trial Court;

- (iii) After their release from jail, Applicants shall report to the Investigating Officer as and when called for;
- (iv) Applicants shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark their presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicants shall mark presence on the next working day;
- (v) Applicants shall not enter the territorial jurisdiction of Dadar Police Station, Shivaji Park Police Station and Dadar Railway Police Station except for attending the IO for attendance and Court proceedings;
- (vi) Applicants shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if they do so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicants shall not influence any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

13. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

14. All 3 Bail Applications are allowed and disposed.

[ MILIND N. JADHAV, J. ]

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