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

BAIL APPLICATION NO.4794 OF 2024

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Anil Ankush Gadekar

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Raj Dilip Dali i/by Mr. P. D. Kavale for the applicant.

Ms. Megha Bajoria, APP for the State.

Mr. Arjun Pawar, API, Palhar Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 18, 2025

P.C.:

1. By this application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks his release on regular bail in connection with Crime No. I-162 of 2022, registered with Palhar Police Station, for the offences punishable under Sections 397, 365, 342, and 120-B of the Indian Penal Code, 1860, along with Sections 3(1)(ii), 3(2), 3(4), and 3(5) of the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred to as "MCOCA").

2. The case of the prosecution, briefly stated, is that the present applicant, along with other co-accused, conspired to commit a robbery by targeting a truck carrying betel nuts. In furtherance of

this criminal conspiracy, the accused persons allegedly travelled in a Pajero vehicle to Kolad Railway Station, Raigad, and awaited the arrival of the said truck. Upon spotting the vehicle, the accused chased it and intercepted it on the Gujarat Highway within the jurisdiction of Bhiwandi. It is alleged that they forcibly restrained the driver (informant) and his cleaner using cello tape and cloth, and confined them in the back seat of the Pajero vehicle. Thereafter, the accused persons allegedly transported them to a BMC parking lot located in Goregaon, Mumbai. According to the prosecution, the stolen betel nuts were then stored in a godown, with the assistance of the present applicant. The applicant was arrested on 22nd February 2022 and has remained in custody since then.

3. The application preferred by the present applicant seeking bail came to be rejected by the learned Special Judge, having jurisdiction to try offences under MCOCA.

4. Learned counsel appearing for the applicant submitted that out of the total nine accused persons, seven co-accused have already been released on bail by the Co-ordinate Benches of this Court. It is pointed out that those co-accused were assigned a more active and direct role in the robbery. In contrast, the role of the present applicant is stated to be limited only to the extent of allegedly assisting in storage of the stolen goods in a godown, post-incident. It is contended that even if the allegations are taken at face value, the applicant was not involved in the planning, assault, or abduction stages of the offence. It is further submitted that the trial is not likely to commence or conclude in the near

future, thereby justifying the applicant's release on bail, subject to appropriate conditions.

5. On the other hand, learned APP has opposed the prayer for bail. It is submitted that the applicant is a habitual offender with past criminal antecedents to his discredit. It is also pointed out that at the time of commission of the alleged offence, the applicant was out on parole in connection with an earlier conviction. It is thus argued that releasing the applicant on bail may pose a threat of repetition of similar offences and may prejudice the interest of justice and safety of society.

6. I have carefully considered the submissions advanced on behalf of the applicant as well as the prosecution. I have also perused the charge sheet and the documents placed on record. At this stage, it would not be appropriate to go into a detailed analysis of the evidence, as the matter is at the stage of pre-trial. However, for deciding the application for bail, the nature of allegations, the role attributed to the applicant, the evidentiary material available on record, the period of incarceration, and the stage of the trial are required to be considered.

7. On perusal of the material on record, it appears that the specific role attributed to the present applicant is not in respect of the actual execution of the offence of robbery or abduction, but rather of assisting the co-accused in storing the stolen property in a godown. Whether the applicant had prior knowledge of the entire conspiracy, or whether his act was in continuation of the organised crime as defined under MCOCA, will have to be determined during

the course of trial.

8. It is also not in dispute that seven co-accused, against whom allegations of actual participation in the violent acts of robbery and confinement have been made, have been granted bail by co-ordinate Benches of this Court. The principle of parity, though not absolute, must receive due consideration, especially when the applicant is alleged to have played a comparatively less active role.

9. The applicant has been in custody since 22nd February 2022. As of today, he has undergone incarceration of more than three years and three months. The trial has not yet commenced and considering the nature of evidence and the number of witnesses, it is not likely to conclude in the near future. The right to speedy trial is a facet of Article 21 of the Constitution of India, and prolonged pre-trial detention, particularly in the absence of any progress in trial, cannot be countenanced unless exceptional circumstances exist.

10. As regards the objection raised by the learned APP regarding the applicant's antecedents and the fact that he was on parole at the time of the alleged offence, this Court is conscious of the said factor. However, in the absence of any material to show that the applicant misused the benefit of bail in the past or absconded from the course of law, this factor alone cannot be treated as an absolute bar. Adequate safeguards can be imposed by this Court in the form of stringent bail conditions to ensure that the applicant does not repeat any such activity or interfere with the trial.

11. In view of the aforesaid discussion, and considering the

principle of parity, the nature of the allegations, the period already undergone, and the right to a fair and speedy trial, this Court is of the opinion that a case for grant of bail is made out, subject to appropriate conditions.

12. Hence, following order is passed:

(i) The bail application is allowed.

(ii) The applicant Anil Ankush Gadekar is directed to be released on bail in connection with Crime No. I-162 of 2022 registered with Palhar Police Station for offences punishable under Sections 397, 365, 342, 120(B) of the Indian Penal Code, 1860 and Section 3(1)(ii), 3(2), 3(4) and 3(5) of the Maharashtra Control of Organised Crime Act, 1999, upon furnishing personal bond of ₹25,000/- (Rupees Twenty-Five Thousand only) each with one or more sureties in the like amount.

(iii) The applicants shall report to the Investigating Officer on the first Monday of every month between 10:00 a.m. to 12:00 noon till framing of charge.

(iv) The applicant shall not tamper with the evidence or attempt to influence any witness.

(v) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.

(vi) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.

(vii) The applicant shall not indulge in any criminal activity

during the pendency of the trial.

(viii) The applicant shall not enter the jurisdiction of Pelhar Police Station except for the purpose of reporting in the police station.

(AMIT BORKAR, J.)