



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

CRIMINAL WRIT PETITION NO.223 OF 2024

PETITIONER : 1) Ifthekar @ Baba Jabbar Gani,
Aged about- 36 years, Occu-
Business, R/o- New Laxmi Nagar,
Bank Colony, Tah & District-
Gondia.

..VERSUS..

RESPONDENT : 1) State of Maharashtra,
Through PSO Gondia City,
District Gondia

Mr.Virat Mishra, Advocate for petitioner
Ms S.N. Thakur, APP for the State/respondent

CORAM : ANIL S. KILOR, J.

DATE : 11th FEBRUARY, 2025

ORAL JUDGMENT :

1. Heard.

2. **Rule.** Rule is made returnable forthwith. Heard finally by
the consent of both the parties.

3. The learned *Ad hoc* Additional Sessions Judge-1, under
Section 10 of the Maharashtra Control of Organized Crime
Act, 1999 (for short MCOC Act) passed the impugned order
dated 01.10.2021, allowing the application Exh.367 and

thereby, Sessions trial No.48 of 2013, pending before the same Court, is directed to be kept in abeyance till conclusion of MCOC Case No.103 of 2020.

4. On perusal of the impugned order, more particularly, paragraph 3 of the order, it is evident that the learned Sessions Court has observed that the Special Court is vested with powers to have precedence over the trial in any other case pending against the accused which is not a Special Court. The Special Court, hence, in view of the provision under Section 10 of the MCOC Act, passed the above referred order.

5. The Co-ordinate Bench of this Court, by placing reliance upon the judgment of the Hon'ble Supreme Court, in the case of *Dharmendra Kirthal Vs. State of Uttar Pradesh and another*¹, has held that the case under the MCOC Act should not be delayed and other case can also go on, but clash of dates should be avoided and for which purpose 'kept in abeyance' would mean, if dates in both cases are common, the case under the MCOC Act will get precedence.

6. In view of the above referred interpretation of Section 10 of

¹ (2013) 8 SCC 368

the MCOC Act, the impugned order does not survive. Hence, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The order below Exh.367 dated 01.10.2021 passed by the *Ad hoc* Additional Sessions Judge-I, Gondia is hereby quashed and set aside and further, it is directed that the learned Special Court shall take care that the dates of both the cases should not be clashed.

Rule is made absolute in the above terms.

(ANIL S. KILOR, J.)