IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.1256 OF 2024

Shehzada Khan s/o Aziz Khan
Vs.
State of Maharashtra, through Sakkardara Police Station, District Nagpur

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. Anil Mardikar, Senior Counsel a/b Mr. D. N. Mehta, Counsel for the applicant.
Ms. Sneha Dhote, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/02/2025

1. The present application is under Section 439 of the Code of Criminal Procedure read with Section 21(4) of The Maharashtra Control of Organised Crime Act, 1999 (for short 'the MCOC Act') for grant of regular bail in connection with Crime No.437/2021 registered with the non-applicant/police station for offences punishable under Sections 120-B, 384, 386, 420, 447, 467, 468, 471, 504, and 506 of the Indian Penal Code and under Sections 3(1)(ii), 3(2), 3(4), and 4 of the MCOC Act.

2. Crime is registered on the basis of report lodged by one Shri Amjad Hussain Gulam Hussain. On 31.8.2021 against the applicant and other co-accused on an allegation that he is a resident of Tajbagh, Nagpur and having his house admeasuring 8000 square feet opposite to office of Tajbagh Old

Trust. At the relevant time, Baba Tajuddin Auliya came there and after his death, the Dargah in his name was established. His father and grandfather were working there as khadims and subsequently he was also working in the same Dargah. Adjacent to his house, there were six shops which were given on rent. In the year 1991, his father constructed cement concrete house behind their house. Out of six shops, the complainant was running PCO and STD Booth in one shop. His father was working as peon in the Dargah. The applicant and his brothers were indulged in illegal possession of property, collecting money (hufta) from shopkeepers and restaurant owners of the area. By creating a terror in the locality, they used to extort money by threatening people who were raising voice against them. Nine trustees were looking after affairs of the trust. However, the present applicant and the other co-accused were members of organized crime syndicate, used to pressurize trustees due to which six trustees tendered their resignations. Subsequently, the applicant and his brothers started threatening shop owners from whom the complainant was getting rents. They also pressurized the complainant to sell his house, they were abused in a filthy language. Six shops were forcibly taken into possession by the applicant and his brother. In the year 2010, present applicant along with his brother by using JCB Machine demolished the house of the complainant and took the household articles without permission of the complainant. The reason to demolish the house was beautification of Tajbagh Area. As the house of the complainant was demolished, he started residing in a rented house. Thus, it is alleged that the present applicant and co-accused were involved in illegal activities and several offences are registered against them and it was requested for taking action against them. On the basis of the said report, initially police registered the crime against the present applicant and the other co-accused under the provisions of the Indian Penal Code.

3. During the course of investigation, it revealed to the Investigation Officer that the applicant and the other co-accused are members of organized crime syndicate and the gang leader is Firoz Khan who is resident of Tajbagh, Sakkardara at Nagpur. He had created terror in the minds of local residents by using weapons and various crimes like gambling, under the provisions of NDPS Act, and smuggling were registered against them. Against the gang leader, in all 39 offences have been registered. Against the applicant, total 8 offences are registered. Considering the activities, in which the applicant is involved, the investigating agency has taken decision to invoke the provisions of the MCOC Act and proposal was forwarded to the competent authority. The competent authority approved the said proposal and granted sanction to prosecute the applicant and the other co-accused under the provisions of the

MCOC Act on 24.01.2020. In view of the order passed by the competent authority, the provisions of the MCOC Act are applied against the applicant and the other co-accused. The applicant is arrested on 13.03.2022. After completion of the investigation, charge-sheet is submitted against the present applicant and other co-accused on 07.07.2022.

4. Heard learned Senior Counsel for the applicant and learned APP for the State.

5. Learned Senior Counsel for the applicant submitted that in all 12 accused are prosecuted, out of them 11 accused are released on bail. One of the co-accused against whom the similar allegations are levelled and his bail application was rejected by this Court, is released on bail by the Hon'ble Apex Court in Special Leave to Appeal (Crl.) No(s).10829-10830/2024 on the ground that there is more than two years and six months incarceration and on that ground also the applicant is to be released on bail. Learned Senior Counsel also submitted that as far as the application of the provisions of the MCOC Act itself is doubtful. But now considering there is inordinate delay in disposing of the trial the Apex Court has considered and released him on bail therefore, on the ground of parity the present applicant is also entitled to be released on bail.

6. Learned APP strongly opposed the said application and submitted that the investigation papers shows the involvement of the present applicant and in all six offences are registered against him and therefore, the provisions of the MCOC Act are made applicable. Considering the gravity of the offence, the application deserves to be rejected.

7. After hearing both the sides and on perusal of the investigation papers, it reveals that the role of the co-accused Amjad Khan and the role of the present applicant is similar. The said Amjad Khan is now already released on bail by the Hon'ble Apex Court considering the fact that he is in custody since 12th March, 2022, the present applicant is also in custody from 12th March, 2022. Thus, the present applicant is also in custody for more than two years and six months and the charges have still not been framed, and therefore, the applicant is also made out a case for grant of bail. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Shehzada Khan s/o Aziz Khan** shall be released on bail on executing PR Bond of Rs.50,000/- with one solvent surety of the like amount in connection with Crime No. 437/2021 registered with the non-applicant/police station for offences punishable under Sections 120-B, 384, 386, 420, 447, 467, 468, 471, 504, and 506 of the

Indian Penal Code and under Sections 3(1)(ii), 3(2), 3(4), and 4 of the Maharashtra Control of Organised Crime Act, 1999.

(iii) The applicant shall attend the office of A.C.P. Hudkeshwar twice in a month on 1st and 15th of every month and shall record his presence.

(iv) The applicant shall also attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either physically or through the electronic media.

(vi) The applicant shall not leave the jurisdiction of the Nagpur District Court without permission of the Court.

(vii) The applicant shall surrender his passport if he is having.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate