

**Special Case No.304/2023**  
**Mayur Anil Gaikwad Vs. State of Maharashtra**

**Order below Exh.88:**  
( Delivered on 24.07.2024)

1) This is an application by accused No.10-Mayur Anil Gaikwad for regular bail under section 439 of the Code of Criminal Procedure, 1973 in Crime CR.No.I-641/2023 dated 13.06.2023 (Special Case No.304/2023) registered with Rahuri Police Station, Tal. Rahuri, Dist. Ahmednagar, for the offences punishable under section-395, 394, 364(A), 323, 341, 427, 504, 506, 34, 120(b), 325 of the Indian Penal Code, under Section-37/135 of the Bombay Police Act and under Section-3(1)(ii), 3(2), 3(4) of MCOCA Act.

2) The prosecution alleged that, on 12.06.2023 complainant Anil Ghadage was having cash of rupees three lakh with him and he obtained rupees six lakh by way of hand loan. Thereafter, at 8.30 p.m. when he was proceeding by his car towards Rahuri with his car driver at 9.30 p.m. near Petrol Pump at Mula Dam Phata one silver/white Car came across his Brezza car. Four persons got down from that car having their faces covered and armed with scythe. Out of them, one person broke driver side rear window glass and opened the door. Then driver of his car was forcibly taken away and made to sit by his side and to their either side two persons sat and remaining two sat on front seat. Then those persons took search of his bag and took away cash amount of Rs.9,00,000/-, his gold chain, gold ring and after roaming in the car for half and hour their clothes were taken away and they were driven out from the car. They were beaten by hard and blunt object. Driver was also beaten by fist and kick blows. They further told

that, they had taken contract to kill complainant and asked him to give more amount by calling it through his friends, brothers, etc. otherwise they will kill him. Thereafter, again they were made to seat in the car.

3) One tape was tied on their eyes and ordered not to remove it for next ten minutes and then they left from that spot. Thereafter, complainant went to Rahuri Police Station and lodged report. Accordingly, this offence came to be registered.

4) The learned advocate for applicant submitted that the applicant has not committed any offence. The applicant has been maliciously roped in the present crime. There is no direct or circumstantial evidence against the applicant. The applicant has been implicated in this crime on confessional statement of co-accused. Nothing has recovered or discovered from the present applicant. The investigation is completed and charge-sheet has been filed. The applicant has no concern with the illegal activities. The applicant is not member of any gang or organization or crime syndicate. He has no concern with present crime. There is no material for offence under Section-395 of the Indian Penal Code. At the most, offence under Section-394 of the Indian Penal Code is made out.

5) Learned advocate further argued that the provisions of MCOG Act were not applied on 07.09.2023. there is no material to show that he had usurped any benefit from the organized crime. There is no material to indicate that, he had been earning from the crime of any such nature. He has only one guntha land. He is living in the tin sheet room. He works as labour. Only because he was known to the other accused, he is implicated in this case. He is the only earning member of his family. He is very poor. The applicant is

innocent and permanent resident of above address. No overt act is attributed to him. Other accused are released on bail by the Hon'ble High Court. The role of present accused is at par with those accused. The earlier criminal cases pending against him has nothing to do with the present accused or offence. Nothing incriminating was recovered from him. Therefore, he may be released on bail.

6) The prosecution submitted reply (Exh-91) alleging that, the applicant was absconding since commission of the offence. The proposal for imposing provisions of MCOG Act were sent to Special I.G. It was approved on 07.09.2023. The present applicant is accused No.10. He is habitual offender. He was involved in various serious organized crime. His previous bail application was rejected by the sessions court. There is every possibility that, he would threaten the witnesses and would hamper or tamper with the evidence. Hence his application may be rejected.

7) The complainant appeared and filed protest petition vide Exh-92 strongly opposing the application.

8) After hearing both parties it transpires from remand papers that, the gang leader Yogesh is the main accused. One of the accused is the present applicant, who is the member of organized crime syndicate. Some of the accused are still absconding. The stringent provisions of MCOG Act are attracted. The accused were engaged in organized crime syndicate and therefore, it appears that if he is released, he will engage in his old business of committing crime, for which already prima facie there is sufficient material on record. There is every possibility that, he will threaten the complainant and witnesses.

9) The activities of the accused of preferring one

application after other have already delayed the trial. He is responsible for not proceeding with the trial at its earliest. There is no change in circumstances. The role of applicant is not at par with those accused who were released on bail by the Hon'ble high court. Even if there is no previous offence registered against the accused, his association with the gang or its members, against whom several offences are registered, makes him prone to provisions of MCOCA.

10) There is no merit in his contentions. There is no need to discuss the evidence against him. The applicant is responsible for delaying the trial on one or the other pretext. Therefore, he is not entitled for bail. Hence, following order;

**ORDER**

The Bail Application Exh-88 is rejected.

Date : 24.07.2024  
Place : Ahmednagar

( **Niranjan R. Naikwade** )  
Additional Sessions Judge,  
Ahmednagar JO Code-MH01063