



IN THE COURT OF DISTRICT JUDGE-1, & ASJ, GONDIA.

SPECIAL (MCOCA) CASE No. 41/2022.

(CNR NO.MHGO010006472022)

State, PSO, Deori -Vs- Ajay @ Fauji & oth.

ORDER BELOW EXH. 64.

(Passed on this 18th day of January, 2025)

Seen application.

2. Applicant is arrested on 12/11/2021 and now he is in Magisterial custody.

3. This is first bail application moved under Sec. 439 of Cr.P.C. by applicant/accused No. 11 Krishipal Lakhvinder Singh claiming regular bail in connection with Crime No. 249/2021 registered with Police Station, Deori for offence punishable under Sec. 395, 341, 342, 365, 323 of IPC along with Sec. 3(1)(i)(ii), 3(2) & 3(4) of MCOC Act, 1999.

4. In a nutshell it is the prosecution's case that on 26.10.2021 at 7:30 p.m. within the jurisdiction of Deori Police Station, Gondia informant Arjunsing Natuba Jadeja, aged 35 years, R/o Satalpur, Distt. Patan, Gujarat was coming from

Raipur and going to Nagpur in Scorpio vehicle bearing registration No. KA-05/MY-2215. When the informant reached Masulkasa Ghat, 8 to 10 persons stopped his vehicle by surrounding it by three vehicles. Those persons beat the informant and snatched Rs. 35,000/- from him. On the report of the informant crime No. 249/2021 for the offences punishable under sections 395, 341, 342, 365, 323 of the IPC was registered with Deori Police Station and investigation started on 27.10.2021.

5. During investigation, the owner of the vehicle informed that Rs. 3,76,00,000/- was kept in the Scorpio vehicle and that the said cash has been robbed from the Scorpio by the accused persons. Some of the accused were arrested on 03.11.2021 and money was recovered from them. On 12.11.2021 two accused were arrested and money was recovered from them.

6. IO came to the conclusion that all the accused had formed Organized Crime Syndicate and they had committed number of other offences which included murder, kidnapping, extortion, robbery, Arms Act and other sections of IPC and other Laws. On the report of Police Inspector Singanjude the provisions of MCOC Act were invoked by the Deputy Inspector General of Police, Gadchiroli Range, Camp at Nagpur. Charge-sheet is filed against all the accused for the

offence punishable under Sec. 395, 341, 342, 365, 323, 120(B), 412 of I.P.C. and 3(1)(ii), 3(2), 3(4), 3(5) of MCOC Act.

7. I.O. has filed reply at Exh. 71 and that he has opposed the application at hand on the ground that offence is serious one and further that police has seized amount of Rs.1,00,000/- from the applicant.

8. Ld. DGP Shri. Chandwani has also also opposed the application on the ground that the offence is grievous. The entire amount involved in robbery which comes to Rs.3.76 crores is not recovered. Further, he has submitted that since MCOC Act is attracted, application at hand be rejected.

9. Learned Advocate for the applicant submitted that it is alleged in the report that amount of Rs.35,000/- was robbed from the said Scorpio vehicle. Later on, the informant changed the statement and it was stated that amount of Rs.3.5/- crores is involved in the said offence. However, in this connection, learned advocate for the applicant submitted that there is no evidence on record which prima facie demonstrates that the informant and or his owner possessed the said amount.

10. Even, according to learned advocate for the applicant, no evidence is available on record to show the

source of income of such a huge amount. He submitted that there is huge difference between Rs.35,000/- and Rs. 3.5/- crores. In fact, from the charge-sheet one may never understand as to why the informant at the very inception in the F.I.R. submitted that only Rs.35,000/- were robbed.

11. He then submitted that in view of tower location of the applicant prima facie raises doubt about presence of the applicant at the spot of incident. Similarly, he submitted that applicant is not seen in CCTV footage seized by police during the course of investigation. Further, he argued that no statement under Sec. 18 of MCOC Act is recorded. Further, he pointed out that police have seized amount of Rs.1,00,000/- during house search. However, perusal of charge-sheet nowhere suggests that the said currency is of the same nature which was robbed.

12. Lastly, he has submitted that applicant is family person and that he has old parents. Responsibility to maintain them is on the shoulders on present applicant. There are no previous criminal antecedents reported against the applicant. Hence, he submitted that applicant be enlarged on bail. So as to further justify the said contention he has argued that Sec. 395 of IPC provides punishment which may run up to life or 10 years. In so far as, Sec. 3 and 4 of MCOC Act are concerned, the minimum punishment provided is five years.

As such, considering that the applicant is in custody since 12/11/2021 and that he has suffered long incarceration, he may kindly be enlarged on bail.

13. Perusal of charge-sheet Prima facie depicts that from the tower location of the present applicant, it is doubtful whether the applicant/accused was present at the spot of incident. Further, applicant is not seen in CCTV footage. Rather, one Manish Kumar Veer Saini was seen in CCTV footage, however, he has been enlarged on bail by Hon'ble High Court.

14. Going by charge-sheet it seems that there are no CDR to say and suggest that applicant was in touch or in contact with other co-accused persons. Similarly, statement of the applicant under Sec. 18 of MCOCA Act is not on record. Now, the prosecution has contended that amount of Rs.1,00,000/- was seized in the house search of applicant, at this stage it cannot be ascertained that the said amount seized and the amount robbed is one and the same.

15 Thus, going by the prosecution's case at this stage, it can be said that applicant is not involved in the alleged crime. Further, considering the material available on record it can be seen that there are no previous criminal antecedents reported against the applicant, as such there is further reason

to believe that applicant if released on bail, then, there is no possibility that he will commit similar offence. As such, applicant having satisfied twin test, in my view he can be enlarged on bail on certain stringent conditions. Hence, the following order.

ORDER

Application [Exh.64] is allowed.

2. The applicant/accused No.11 **Krishipal Lakhvinder Singh** be released on bail on his executing PR bond of Rs.50,000/- and furnish one surety in the like amount on the following conditions;

[i] The applicant shall not threaten or influence the witnesses.

[ii] The applicant shall attend the concern Police Station on 1st Sunday of every month.

[iii] The Officer incharge of concerned Police Station shall apprise this Court of the attendance marked by the applicant and shall take immediate steps if the applicant remains absent even on one occasion.

[iv] The applicant shall at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court, and shall not change the residence till the final disposal of the case.

[v] The applicant shall regularly attended the Court and cooperate the Court to complete the trial for the above offences. He shall not seek adjournments, except under extreme circumstances to the satisfaction of the Court.

[vi] The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

[vii] The applicant shall maintain law and order.

[viii] The applicant shall surrender his passport, if any, before the Investigating Officer within a period of one week from today. If he does not possess any passport, he shall file affidavit to that effect.

[ix] Breach of any condition shall be a ground for cancellation of bail.

3. Application is disposed of accordingly.

Gondia.
Dated: 18.01.2025.

(A. S. Pratinidhi)
District Judge-1 & ASJ,
Gondia.

Dictated and transcribed on dais computer	:	18/01/2025
Checked by the Judge	:	18/01/2025
Finally printed and signed by the Judge	:	18/01/2025