

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

SPL. (MCOCA) CASE NO. 41/2022.
(CNR NO.MHGO01000647-2022)

State, PSO, Deori -Vs- Ajay Kumar & other.

ORDER BELOW EXH. 36.

(Passed on this 02nd day of February, 2024)

This is an application filed by applicant/accused No. 7 - **Sayyad Salimbhai Noormohammad Sayyad** for grant of bail u/s 439 of Cr.PC. The applicant/accused has been arrested on 04/11/2021 by Police Station, Deori in Crime No. 249/2020 for alleged offence punishable under Sec. 393, 341, 342, 365, 323, 120(B), 412 of IPC and Sec. 3(1)(ii), 3(2), 3(4), 3(5) of MCOC Act. Chargesheet is filed.

2] Prosecution case in brief is 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 assaulted 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.

3] During investigation, it transpired that on the information of the owner of Scorpio Rs. 3,76,00,000/- was kept in the Scorpio vehicle and those were removed from the Scorpio by the accused. During investigation some of the accused were arrested on 03.11.2021 and part amount of robbery was recovered from them. On 12.11.2021 two accused were arrested and part of the robbed amount was recovered from them. During investigation, the 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 and under 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. Thereafter, the police custody of the accused were sought for further investigation and now all the accused are in judicial custody. 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.

4] Learned Advocate for the applicant Mobin Shaikh submits that co-accused Baljitsingh Ratansingh got bail from the High Court in Criminal Application (BA) No. 1003/2022 by order dated 15/02/2023. He submits that the case of the applicant is on much better footing as the applicant was neither present on the spot of incident nor any recovery is made at his instance. There is no statement of the applicant recorded under Sec.18 of MCOA Act. Applicant was present at Gwalior at the time of incident. There is no CDR on record to establish that the applicant was in contact with the other co-accused involved in the crime at the time of commission of offence or within one and a half month before it. Only because the applicant has contact with the other co-accused, he has been falsely implicated. The High Court has been granted bail to Baljitsingh who was present on the spot at the time of commission of offence. The applicant was not present on the spot. The applicant is entitled for grant of bail on parity also as his case is better footing than of Baljitsingh (co-accused). He further submits that since last many days the applicant is suffering from ailment. He is being provided medical treatment by the jail authorities, however, his condition is getting worst and is even unable to walk. He has prayed for grant of bail on this ground also.

5] I.O. has filed reply at Exh. 52 and has opposed the application on the ground that the accused is resident of Gujrat. As per the statement of witness Sunil Varma on 15/10/2021 and 22/10/2021 the applicant had stated to him that he is goint to commit robbery of Hawala amount coming from Chattisgadh. He further stated that on 28/10/2021 the applicant came to Gwalior and again asked him whether he would commit robbery of Hawala amount. He further submits that the applicant is involved in crime No.669/2021 of Police Station, Maheshwar, Dist. Khargon (MP) under Sec. 365, 394, 395, 397, 398, 412, 413 of IPC along with Sec. 25 of Arms Act. He has committed the said crime along with the gang leader Ajay Fauzi and twelve others. He is an active member of the gang. The applicant is aware of absconding accused Anujsingh. He may abscond. He may threaten or influence the witnesses. He may dispose of the amount of crime. The offence of grievous. He has prayed for rejection of the application.

6] Ld. DGP Shri. Chandwani has opposed the application on the ground that the accused is the member of Organized Crime Syndicate and made plan to commit dacoity. There are other crimes are registered against him. There is a ample evidence against him. He is resident of Gujrat and may

not attend the trial. He may tamper with the evidence. He has prayed for rejection of the application.

7] I have gone through the charge-sheet. As per the charge-sheet and the prosecution story, at the time of commission of offence the applicant/accused was at Gwalior. Moreover, perusal of the statement of Sunil Varma shows that on 28/10/2021 also the applicant had stated to him whether he is interested in committing robbery in Hawala amount. Whereas the alleged robbery was committed on 26/10/2021.

8] There is no CDR to show that the applicant/accused was in contact with the co-accused through mobile for a duration of one and a half month soon before the incident. No statement under Sec. 18 of MCOCA Act of the accused is on record. There are no recovery is made from the applicant during the police custody. There is no other evidence to connect the accused with the present crime. The medical record submitted by the jail authorities show that the applicant is ill and is being provided medical treatment. The case of applicant is on a better footing if parity is considered than the case of co-accused Baljitsingh and Mamta who have been granted bail by the Hon'ble High Court. The applicant is entitled for grant of bail on the ground of parity also. Hence, I pass the following order.

ORDER

- 1] Application [Exh.36] is allowed.
- 2] The applicant/accused **Sayyad Salimbhai Noor Mohammad Sayyad** 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 without prior permission of the court 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.

Sd/-*

Gondia.
Dated:02.02.2024.

(Adil M. Khan)
District Judge-1 & ASJ,
Gondia.