

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. 123.

(Passed on this 20th day of February, 2024)

This is an application filed by applicant/accused No. 4 - **Manish Amarpal Singh** for grant of bail u/s 439 of Cr.PC. The applicant/accused has been arrested on 03/11/2021 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.

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 Shri Bishnoi for the applicant submits that the applicant has been falsely implicated on the basis of false complaint lodged by the informant. The investigation is completed and charge-sheet is filed. The initial complaint was of robbery of Rs.35,000/-. However, subsequently the amount was enhanced to Rs.3,66,00,000/- on the basis of the statement of Kamlesh Shah. The applicant is behind bar since last two years and trial is yet to begin. He further submits that the applicant runs a travel agency and owns one Scorpio vehicle. The applicant had given the said vehicle on hire to the co-accused which they alleged to have been used in the said crime. The Hon'ble High Court by its order dated 15/02/2023 in Criminal Application (BA) No. 1003/2022 has granted bail to similarly placed accused Baljitsingh Ratansingh. This court has also granted bail to co-accused Sayyad Salimbhai Noor Mohammad Sayyad as per order below Exh.36. On the ground of parity also the applicant is entitled for grant of bail. The applicant is 28 years old having no criminal antecedents. He has prayed for grant of bail.

5] I.O. has filed reply at Exh.131 and has opposed the application on the ground that the applicant is actively involved in the present crime. He was present on the spot at

the time of commission of offence and had assaulted the informant. Prior to the commission of offence, the applicant/accused along with other co-accused stayed at Shende Lodge, Dongargadh which is at a distance of 50 KM from the spot of incident and he can be seen in the CCTV footage. On 23/10/2021 also the accused along with other co-accused stayed at Bombay – Kolkatta Dhaba, Dist. Durg (CG) which at some distance from the spot of incident and can be seen in the video footage. The applicant is also the owner of Scropio vehicle No. UP-17/H-8058 which is registered in the name of applicant and was used in the commission of the said offence. The applicant was apprehended by Gujrat Police, by Police Station Samdaji, Dist. HimayatNagar, Gujrat who was travelling in a Verna vehicle HR-70/B-8621 along with co-accused Vikram carrying cash of Rs.25/- lakhs which was seized. He is active member of the gang. He may tamper with the evidence or threaten the witnesses. He may abscond. He has prayed for rejection of the application.

6] Learned DGP Shri Chandwani has filed say and opposed the application on the ground that the applicant is an active member of the gang. Not only he was present on the scene of crime but found with cash of Rs.25/- lakhs along with co-accused Vikram where the police apprehended him.

He is seen in the CCTV footage along with co-accused at various places. There is sufficient evidence against the accused in the form of statement under Sec. 18 of MCOCA Act. He has prayed for rejection of application.

7] Perusal of record shows that the ADGP has accorded sanction to prosecute the applicant/accused under MCOCA Act. The vehicle used in the offence is owned by the applicant. The applicant is also visible in the CCTV footage at various point along with co-accused in the said vehicle. Statement under Sec. 18 of MCOCA Act of the co-accused also implicate the applicant. As per the prosecution, the applicant was apprehended by Gujrat Police along with co-accused Vikram carrying Rs.25/- lakhs in the Varna Car which was seized by the police from the said vehicle. Thus, the submission of learned advocate that the applicant had only given his car on rent cannot be believed as there was no reason for the applicant to accompany co-accused Vikram to Gujrat in Varna Car carrying Rs.25/- lakhs when the said Varna Car is not even registered in his name. Thus, the applicant is not entitled for grant of bail on the ground of parity also, since the charge-sheet shows that even after the commission of the said crime the applicant had accompanied the co-accused to Gujrat along with the robbery amount of

Rs.25/- lakhs. Prima facie case is made out against the applicant. There are every chances of his absconding if released on bail. He is permanent resident of UP. Hence, I pass following order.

ORDER.

- 1) Application (Exh. 123) is hereby rejected.
- 2) Application is disposed of.

Gondia.
Dated:20.02.2024.

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