

**Common order passed below EX. NO. 4, 8, 10, 14 AND 20 IN
MCOB CASE NO. 25 OF 2018**

1] All five applications at hand have been filed u/s 439 of Cr.P.C. and 21 (4) of MCOB Act seeking bail. The applicants and co-accused have been charge sheeted for offences u/s 3, 4, 5 of P.I.T.A. Act, 370, 370-A r/w 34 of IPC and 3 (1) (ii), 3 (2), 3 (4) of MCOB Act pursuant to C.R. No. 757/2017 registered with Yerawada Police Station on the FIR lodged by Asstt. Police Inspector Smt. Sheetal Bhalekar attached to Social Security Wing, Crime Branch, Pune City.

2] The application Ex. 4 has been filed by Shanti Laxman Giri (Accused No. 6), application Ex. 8 is preferred by Rahul Vishwajit Bhattacharaya (Accused No. 10), application Ex. 10 is made by Yuvraj Keshav Thapa (Accused No. 11), Application Ex. 14 has been moved by Sagar @ Shivbahaddursingh (Accused No. 9) and the application Ex. 20 is by Krishnasingh Surendrasingh (Accused No.12). The Crime has been registered against 24 accused persons, out of them 12 are arrested so far and rest are absconding.

3] Heard Advocate of applicants and Spl. P.P. I have gone through documents produced by the applicants and investigation made so far.

4] According to prosecution case, on 18.9.2017 a secret information was received by the Crime Branch, Pune that in Hotel Hayat, Ramwadi, Pune-Nagar Road, prostitution business is going on and several girls brought from various parts of the country and from abroad are compelled to work as prostitution. About 19.15

hours, on 18.9.2017 the raid was effected on Hotel Hayat. The raiding party rescued several girls from the Room No. 1124, 1121 and 1644 of the hotel. The accused No. 1 to 3 were arrested on 21.11.2017, the accused no. 4 to 8 were arrested on 28.11.2017, accused no. 9 was arrested on 4.3.2018 , accused no. 10 came to be arrested on 13.3.2018, accused no. 11 was arrested on 24.3.2018 and accused no. 12 has been arrested on 26.3.2018. During the course of investigation, 19 cell phones , 5 laptops were seized. It was transpired in the investigation that applicant Krishnasingh Surendrasingh is leader of Organized Crime Syndicates indulged into human trafficking. Several crimes in various police stations have been registered against the applicants and co-accused for offences u/s 370, 370-A of IPC and for the offences punishable u/s PITA Act. The I.O. collected documents regarding criminal antecedents of the applicants and co-accused, recorded statements of witnesses, collected CDR from several mobile companies in respect of conversation made on the cell phones seized, obtained sanction u/s 23 (2) of MCOC Act and filed Charge sheet against the applicants and co-accused.

5] Ld. Advocate for applicants submitted that having regard to provisions of PITA Act, which is a self contained Code, invocation of MCOCA is bad in law. The alleged offence do not fall under 'continuous unlawful activity' or 'organized crime' contemplated to section 2 (d) and 2 (e) of MCOC Act. After completion of investigation, Charge sheet has been filed, therefore, there is no need to keep the applicants in Judicial Custody. The Ld. Advocate concluded their arguments with submissions that

applicants are ready to abide by terms and conditions which Court may deem fit, therefore, they be released on bail.

6] Per contra, Ld. Spl. P.P. unfolded before me the investigation on record and submitted that accused No. 12 Krishnasingh Surendrasingh is leader of Organized Crime Syndicate. The co-accused are members of the said Syndicate being run for the purpose to gain money wherein the victim girls brought from various parts of the country and also abroad are forced to work on paltry consideration. The Ld. Spl. P.P. concluded his argument with submission that investigation made so far indicates that applicants may continue their unlawful activities in future also, if they are released on bail or tamper with prosecution evidence, therefore, all five applications are liable to be rejected.

7] The first submission made on behalf of the applicants relates to the validity of invocation of MCOCA against applicants on the ground that PITA Act is self contained Court. I do not find substance in this submission for simple reason that definitions of 'Organized Crime' and 'continuous unlawful activity' appearing in section 2 (d) and 2 (e) are exhaustive. Any activity prohibited by law, which is cognizable offence punishable with 3 years imprisonment or more is requires to be considered while invoking provision of MCOCA. Furthermore, any unlawful activity by any individual , singly or jointly, either as a member of Organized Crime Syndicate or on behalf of such syndicate using violence, threat of violence, intimidation, coercion or any other unlawful means with object to gain pecuniary benefit or to gain undue

economic or other advantage amounts to organized crime.

8. As per the prosecution case, all applicants are Members of an Organized Crime Syndicate being run with object to gain money and for that purpose several victim girls are forced to become sex worker. Needless to say, that to compel any girl or woman to become sex worker certainly falls under the head of cognizable unlawful activity. The competent authority has accorded sanction u/s 23 (2) of MCOC Act, having regard to criminal antecedents of the applicants, therefore, the subjective satisfaction of the sanction according authority cannot be challenged at this stage without giving opportunity for prosecution to lead evidence. The material fact cannot be ignored that all the applicants and co-accused are habitual offenders as per the evidence on record and the particulars of various crimes registered against them in several police stations have been furnished along with the Charge sheet. In such circumstances, I do not find substance in the submission made to challenge invocation of MCOCA against the applicants and co-accused.

9] So far as role of applicant Shanti Giri in the alleged offence is concerned, two co-accused have confessed u/s 18 of MCOC Act which throws light on the role of applicant Shanti Giri. It is material to note that C.R. No. 238/17 was registered against applicant Shanti Giri and 4 others in Cantonment Police Station, Pune for offences u/s 370, 370-A of IPC and 3, 4, 5, of PITA Act. The applicant Shanti Giri is arrested in this crime on 28.11.2017 by way of transfer from the earlier crime. The investigation shows that 3 cell phones have been seized during the course of

investigation in CR No. 238/17 and the investigation discloses that several advertisement were displayed on the website giving fake names of sex workers. The CDR of those cell phones collected by I.O. shows that applicant Shanti Giri was constantly in contact with co-accused Rahul Bhattacharaya and co-accused Ganesh Langada. In short, the involvement of the accused Shanti Giri in substantive offence u/s 370, 370-A r/w 34 of IPC and 3, 4, 5 of PITA Act can prima facie be seen from the investigation on record.

10] The applicant/accused Rahul Bhattacharaya is also habitual offender and the investigation prima facie shows that CR No. 127/17 registered with Koregaon Park Police Station, Pune, CR No. 24/18 registered with Samarth Police Station, Pune throws light on his antecedents. The cell phone number 7798890897 and 8888917670 were being used to make advertise of sex business on several websites. The CDR of these cell phones are collected by the I.O. Apparently, the investigation shows that applicant Rahul Bhattacharaya has been working as an agent in prostitution business and constantly in contact with leader of the gang since April 2017.

11] The applicant/accused Yuvraj Thapa Rails from Nepal and the investigation made so far shows that three crimes are registered against him in Yerawada Police Station, and Cantonment Police Station, Pune for offences under 370, 370-A of IPC and 3, 4, 5 of PITA Act. The prosecution witness Shadab Shaikh and Prosecution witness Mohammad Sadiq have specifically disclosed the role played by applicant Yuvraj Thapa in the prostitution business. The name of applicant Yuvraj Thapa and

his role finds place in the confessional statement of the co-accused.

12] The applicant/accused Sagar @ Shivbhaddursingh has played material role, as per the investigation on record. The statements of victims show that applicant Sagar has brought several girls from various parts of country at Pune. He was accepting sum of Rs.8 to 10 thousands from the customers and about 3 to 4 customers per day were being sent towards victim girls. The investigation further shows that applicant Sagar was getting Rs.5000/- from each customer. The cell phone number 8788591635 seized by I.O. was being used by applicant Sagar to contact the customer. The CDR of this cell phone are on record.

13] The applicant Krishnasingh Surendrasingh is brain behind the sex racket and leader of Organized Crime Syndicate. The investigation made so far shows that more than 10 crimes are registered against the applicant Krishnasingh and co-accused in various police stations including CR No. 3117/2014 in Yerawada Police Station, 127/17 and 144/17 in Koregaon Police Station for offences u/s 370, 370-A r/w 34 of IPC and 3, 4, 5 of PITA Act. He incurred loan of Rs. 40 lakhs from Saudamini Finance Corporation to run the sex racket. The landlords of the houses in which the business of sex racket was being conducted by applicant Krishnasingh have in their statements thrown light on the active role in present incident of applicant Krishnasingh. The statements of several victims brought from abroad shows that they were in constant contact with applicant Krishnasingh and CDR of relevant cell phones are on record.

14] All facts narrated hereinabove, prima facie shows that

applicant Krishnasingh is leader of an Organized Crime Syndicate being run for the purpose to gain money by compelling several victim girls to become sex worker. Rest of the applicants are prima facie members of this Organized Crime Syndicate. The investigation made so far shows that several firms and companies have been brought into existence by the Crime Syndicate for the purpose to run their sex racket. Apparently, applicants may continue their unlawful activities, or put pressure upon the victims and other prosecution witnesses, if they are released on bail. Having regard to investigation on record and material role discharged by the applicants, as prima facie seen from the investigation made so far, I am declined to release the applicants on bail. Resultantly, all five applications at hand are rejected with following order :

ORDER

1) Bail Applications Ex. 4, 8, 10, 14 and 20 stand rejected, accordingly, disposed of.

X X X

(A.S. Mahatme)

Date : 29-12-2018

Spl. Judge under MCOC Act,Pune.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same word for word as per original Judgment.

Name of steno : V. S. SONAWADEKAR
(H. G. Stenographer)

Name of the Court : A. S. Mahatme, District
Court - 4 & Additional
Sessions Judge, Pune

Date of Order : 29.12.2018

Order signed by P.O. on : 31.12.2018

Order uploaded on : 1.1.2019