

syndicate. Therefore, provisions of the M.C.O.C. cannot be invoked against him. There is no test identification parade showing involvement of the applicant in the crime and only evidence on record is call detail record, which is a very weak piece of evidence.

5] The learned advocate Mr. Swami argued that Iqbal Singh is falsely implicated in the crime. His name is not Tony. It is alleged that one girl of Uzbekistan origin was found in the hotel and from her name of Tony was transpired but there is nothing on record to show that the accused Iqbal is known as Tony. There is no material on record to connect the accused with the crime. There is no test identification parade. No advertisement alleged to have been created by the accused and the name of accused and mobile number of accused Iqbal is shown. There is no previous criminal record. He is not the member of the organized crime syndicate and has no direct or indirect connection with the co-accused.

6] Learned Special P.P. argued that though the name of both accused-applicants is missing in the confessional statement of co-accused, there is sufficient material on record to show that the accused applicant were in contact with other co-accused. From the CDR it is clear that the applicant Kapil made 86 calls to gang leader Krishnasingh, 78 calls to co-accused Pintu Mauritius, 5 calls to Pratap Sahu, 2 calls to Lipun Sahu, 14 calls to Rahul Bhattacharya. So far as accused Tony is concerned, he made 49 calls to Suresh, the agent. It is also argued that more than Rs.52,00,000/- amount is deposited in two different accounts of accused Kapil, which he gained from the business of organized crime syndicate. According to him, there is sufficient material to show involvement of the accused in the present crime and prayed for the rejection of the bail applications.

7] I may note that as stated above, in the present case, the police of local crime branch, on tip received, laid a trap at Hotel Hayyat in Pune on 18.09.2017 and they found accused Rahul @ Raju, accused John @ Jatin Mohan Chavda, accused Sagar, accused applicant Tony and Suresh agent, are involved in flesh trading with the help of victim Celezneva, Revati and Makmuduva. Celezneva was from Russia, Makmuduva is from Uzbekistan. During investigation, Makmuduva stated that she was introduced to agent Suresh by accused applicant Tony @ Iqbal Singh. The gang was run by accused Krishna Singh with the help of Pintu, who is absconding and accused persons have used the social media and inter-net for advertising their business and for attracting customers. The prosecution has filed on record photo copies of the screen shots showing phone numbers for contact on which the present two applicants alleged to have made number of contacts. Prima facie having material to show applicant accused persons were in touch with the other co-accused, who were directly involved in a flesh trade, is sufficient incriminating evidence against the present applicant to show their involvement in the present crime.

8] So far as the accused Kapil is concerned, according to him, he is a driver by profession. But, it is clear that there was huge cash transaction in his bank account with Axis Bank and ICICI Bank account of more than Rs.52,00,000/-. According to the prosecution, he has also transferred amount of Rs.54,000/- in the name of a gang leader Krishna Singh. Thus, prima facie material on record shows that both accused applicant were involved in the crime of flesh trade and they were acting alongwith other co-accused. It was the accused applicant Tony, who introduced the victim Makmudua with agent Suresh.

9] As per prosecution reply, accused Kapil from his two different phone numbers made total 86 calls to gang leader

Krishnasingh and 78 calls to Pintu Mauritius. The applicant also made 14 calls to Rahul Bhattacharya, whose confessional statement is on record. If he had no nexus with the organized crime syndicate or gang leader Krishnasingh, then there was no need for him to make calls to gang leader and his other associates. Similarly, the accused applicant Tony as stated too has made 49 calls to the agent Suresh on his two different phones. As per the FIR when the raid was conducted, the victim Makmuduva had stated that it was the accused applicant Tony, who introduced her with co-accused Suresh agent. In the statement of Makmuduva recorded before NGO, though the name of the accused applicant Tony is not appearing, at this stage prima facie material on record in the form of FIR is sufficient to show his involvement in the crime. There is sufficient material on record to show that both the accused applicants were involved in the crime in hand.

10] Now coming to the applicability of the provisions of MCOC Act, I may note that the prosecution has put on record comparative chart showing crimes registered against the accused and the cases in which cognizance has taken. I may note that so far as gang leader Krishnasingh is concerned in five cases under Prevention of Immoral Traffic Act (PITA) or ITPA, cognizance is taken by the competent court. So far as co-accused Pinto Mauritius is concerned, in 5 PITA cases, the competent court had taken cognizance and though he was acquitted in three cases, two cases were pending against him in the court. In the crime No. 3127/2014 of Yerwada police station, co-accused Krishnasingh, Lipun Sahu and Pratap Sahu are the accused. Whereas in CR No. 215/2017 of Mundhwa Police Station, said Krishnasingh and Pinto Mauritius are co-accused. Having regard to the past criminal record, it is clear that the organized crime syndicate headed by Krishnasingh is involved in similar offences. It is prima facie clear that

the present two applicants were in contact with the gang leader Krishnasingh and other co-accused and they are the members of organized crime syndicate and participated in commission of the present crime. Though they do not have any past criminal record, I may note that the Hon'ble Bombay High Court in the case of ***Govind Sakharam Ubhe vs. The State of Maharashtra 2009 ALL MR (Cri) 1903*** has held that if within a period of preceding ten years, one charge-sheet has been filed in respect of organized crime committed by the members of a particular crime syndicate, the said charge-sheet can be taken against a member of the said crime syndicate for the purpose of application of the MCOCA against him even if he is involved in one case.

11] Therefore, past criminal history against co-accused i.e. gang leader Krishnasingh and other accused can be relevant while invoking offences under MCOA Act against the present applicants. Therefore, prima facie I find that both the accused applicants have committed offences under MCOA Act also. Considering the criminal record of other co-accused, I find that if the present accused are released on bail, they would repeat the crime. As such both the accused applicants are not entitled for the bail. Accordingly, I pass the following order :-

ORDER

The bail applications Exh. 29 of Kapil Shrimantrao Patil @ Vijay Singh and Exh.30 of Tony @ Iqbalsing Mahnidra Pal, are rejected

Pune

Date 15.07.2019

(Aniruddha Y. Thatte)
Special Judge, under MCOA Act, Pune

CERTIFICATE

I affirm that the contents of the PDF file Judgment are same word for word as per original Judgment.

Name of Steno :- Sau. S.M. Khisti (Steno G-1),

Name of Court : Shri. A. Y. Thatte, District Judge 15 and ASJ, & Spl. Judge, Pune.

Date of Order :- 15.07.2019

Judgment signed by PO on : - 15.07.2019

Judgment uploaded on :- 16.07.2019

MHPU01-006626-2018