



MCOGA SPL. CASE NO. 25/2018
CNR NO : MHPU01-006626-2018

The State of Maharashtra ...Prosecution
vs.
John @ Jatin Mohan Chawda and others ...Accused

COMMON ORDER BELOW EXH. 59

- 1] This is the application filed by the accused John @ Jatin Mohan Chawda for regular bail in connection with CR No. 757/2017 registered by Yerwada Police Station for the offences punishable under Sections 370, 370-A r.w. 34 of IPC, Sections 3,4,5 of Immoral Traffic (Prevention) Act and Section 3(1)(ii), 3(2), 3(4) of M.C.O.C. Act.
- 2] Perused the applications and say given by the prosecution at Exh.60.
- 3] Heard Adv. Smt. Shaikh for accused and Special P.P. Shri. Hande for the prosecution.
- 4] 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, 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.

5] Learned advocate for the applicant accused argued that the applicant is falsely implicated in the crime and he was arrested from Chhatisgarh and shown to be the agent of a Russian girl who was taken to hotel Hayyat. She submitted that there is no evidence on record showing any role alleged to have been played by the accused applicant in commission of the crime. Phone number alleged to have been used by the applicant was standing in the name of the other person. There is no test identification parade showing involvement of the applicant in the crime. Applicant has three accounts in the bank and there are no transactions which can be linked to the organized crime syndicate. Applicant has no criminal antecedents. He has no connection with the crime. No case is made out to attract provisions of MCOG Act. Hence, prayed for the bail.

6] Learned Special P.P. argued that the accused applicant is an agent and was known by the name John @ Prakash @ Jatin and even the victim (foreign national who was trafficked) had stated that the applicant had contacted her. Applicant was using phone number 8888933562 which was in the name of one Tikaram Kshetri had contacted victim from the said number on her phone, of which SIM

card was in the name of Ajay More. CDR is on record showing call details between those two phones. He further submitted that having regard to the nature of the crime, the accused had suppressed his real identity and by using bogus name and phone number of another person, he contacted victim as well as customers including the customer Suraj Jadhav. He further submitted that not only statement of victim but the statement of Suraj Jadhav as well as confessional statement of two accused shows the role played by the accused applicant John and he has nexus with the organized crime syndicate. He prayed for the rejection of the application.

7] The learned advocate for the accused applicant has relied on the following case laws :-

- 1] Sandip Ram Phatak ..vs.. State of Maharashtra – Cr. B.A. No. 2780/2018.
- 2] Mohd. Zuber Yakub Shaikh and other ..vs.. The State of Maharashtra - Cr.B. A. No. 349/2015.
- 3] Sunny Sunil Patil ..vs.. State of Maharashtra – Cr. B.A. 864/2016.
- 4] Dinesh Bhondulal Baisware ..vs.. The State of Maharashtra – Cri. B.A. 424/2016.

8] By keeping in mind the law laid down in the above cited case laws, I deal with the facts of the case in hand.

9] While deciding bail application court is not supposed to have a roving enquiry, but shall have a bird's eye view on the evidence collected by the prosecution. Each case need to be dealt with as per its facts and circumstances coming on record. The crime in the present case is some how distinct than the regular cases coming under MCOCA. In the present crime the accused are booked for PITA. They immorally trafficked the victims in order to put them in flesh trade.

When the raid was conducted at Hotel Hayyat, two girls were found by police to whom two dummy customers were sent by police. In FIR API Shital Bhalekar has stated that when she enquired with victim, she told that the applicant accused i.e. John contacted her on phone. Accused was having phone number 8888933562. Informant also contended that dummy customer Suraj Jadhav also received call from John i.e. the applicant accused from the said phone number. The statement of victim who is claimed to be a Russian national, shows that she was at Goa and present applicant called her to Pune. He booked hotel for her. The CDR shows call details between victim and the present applicant and it shows that there were number of calls between victim and the applicant accused. Dummy customer Amit Patil in his statement stated that the accused applicant John had contacted her from his phone number (phone number given supra). Same is the case with dummy customer Suraj Jadhav. The chart showing contacts between various accused and customer shows that John i.e. accused applicant has contacted other co -accused as well as victim.

10] Police have recorded confessional statement of two co-accused namely Sagar @ Shivbahaddur Singh and Rahul Bhattacharya. Under Section 18 of the MCOC Act confessional statement of the accused is not only admissible against him but also against co-accused. Confessional statement of these two accused goes to show that the applicant John not only had nexus with the organized crime syndicate but he was active in organized crime syndicate and was working as an agent for victims and other trafficked girls.

11] The material on record prima facie goes to show that the accused applicant was actively involved in the crime as he contacted dummy customers on their phone being agent of victim i.e. the trafficked girls. He was also active in contact with Russian national

victim. The material on record is prima facie sufficient to show that not only the applicant has actively participated in commission of the crime but he has nexus with the organized crime syndicate, which was involved in human trafficking involved in flesh trade. The applicant has nexus with the organized crime syndicate.

12] I may note that so far as gang leader Krishna Singh is concerned in 5 cases in PITA or ITPA cognizance is taken by the competent court and so far as co-accused Pintu Mauritius is concerned against whom also there are 5 cases under PITA and the competent court has taken cognizance. Though he was acquitted in three cases, two cases are pending against him in the court. In the CR No. 3127/2014 of Yerwada police station co-accused Krishna Singh, Lipun Sahu and Pratap Sahu are also accused whereas in CR No. 275/2017 of Mundhwa police station Krishna Singh and Pintu Mauritius are co-accused, which goes to show that there is organized crime syndicate involved in business of immoral trafficking and said organized crime syndicate is headed by Krishna Singh. Not only present applicant has nexus with the organized crime syndicate and its gang leader but he has actively participated in the present crime. 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.

13] Therefore, having regard to the above made discussion I find that accused applicant is not only involved in present crime but

he has nexus with the organized crime syndicate headed by Krishna Singh, which is involved in commission of the similar offences at earlier point of time. Prima facie material on record is sufficient to show that the applicant has committed offence under MCOCA. If he is released on bail likelihood of his repeating offences is there and in view of the bar of Section 21(4) of MCOG Act, the accused is not entitled for the bail. Hence, the following order :-

ORDER

The bail application Exh. 59 of accused applicant John @ Jatin Mohan Chawda filed in connection with CR No. 757/2017 registered with Yerwada police station, is rejected

Pune

Date 23rd March, 2020.

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

CERTIFICATE

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

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| Name of Steno | Mrs. S.M. Khisti Stenographer Grade I |
| Name of Court | Shri. A. Y. Thatte, District Judge 12 and ASJ, Pune. |
| Date of Order | 23.03.2020 |
| Order signed by PO on | 23.03.2020 |
| Order uploaded on | 01.04.2020 |