



Spl. MCOCA Case No.25/2018
CNR NO. MHPU010066262018
CR 757/2017 of Yerwada PS

Yuvraj Keshav Thapa

.... Applicant.

Vs.

The State of Maharashtra

.... Respondent.

ORDER BELOW EXH. 74

This is the second application for regular bail filed by the accused applicant Yuvraj Keshav Thapa under Section 439 of the Cr.P.C. read with Section 21(4) of the MCOCA Act in connection with CR NO. 757/2017 registered by Yerwada police station for the offences punishable under Section 370, 370(A), r.w. 34 of IPC, Section 3, 4, 5 of PITA and Section 3(1)(ii), 3(2), 3(4) of the MCOCA Act.

2] Perused the application and say given by the prosecution at Exh.78.

3] Heard Adv. Miss Rutuja Govitrikar, holding for Adv. Shri. Walimbe for the applicant and Special P.P. Shri. Phargade for the State.

4] Adv. Miss. Govitrikar argued that the accused is falsely implicated in the crime. Invocation of MCOCA is not proper. Applicant has no past criminal record. As such, there is no continuing unlawful activity and therefore, it cannot be said that the accused has committed offences under MCOCA. Accused is arrested on 24.03.2018. There is delay in trial, therefore, he may be released on bail.

5] Special P.P. Shri. Phargade while opposing the bail application submitted that earlier application for bail was rejected by

this court after filing of the charge-sheet. There are no change in circumstances warranting fresh view in the matter. Application deserves to be rejected.

6] In the present case on the tip received, Local Crime Branch came in action and led a trap in hotel Hayat at Ramwadi in Pune on 18.09.2017 and they found accused Rahul @ Raju, accused John @ Prakash Sharma @ Jatin Chavala, Sagar, Toni and Suresh, were involved in flesh trading with the help of victim Selezneva, Revati and Makmuduva. Selezneva was from Russia, Revati was from Delhi and Makmuduva from Uzbekistan. During investigation Selezneva stated that she was introduced to agent Suresh by accused Tony. Said gang was run by accused Krushna Singh Surendra Singh with the help of Pintu, who is absconding accused person showed Makmuduva for advertising their business and for attracting customers. Prosecution has filed on record screen-shots and contact numbers on record, on which co accused alleged to have made number of calls. After investigation charge-sheet came to be filed against all accused.

7] This court has rejected the application Exh.10 filed by present accused applicant for regular bail by common order dated 19.12.2018. Said order came to be passed after filing of the charge-sheet. It was one of the point of argument for the applicant that since charge-sheet was filed, there is no need to keep accused behind bars. This court by considering the material on record rejected the application on merit.

8] The learned advocate for the accused applicant has failed to point out any change in circumstances warranting fresh view on the bail application of the present applicant. It is a settled law that accused may file number of bail applications, but it is

necessary for the accused to show change in circumstances warranting fresh view on his bail application, otherwise deciding such bail application when there is no change in circumstances would amount to review of own order by the court, which is not permissible in criminal law.

9] As stated above, the applicant has failed to show change in circumstances warranting fresh view. So far as contention of learned advocate of the application that since accused has no past criminal record, invocation of MCOCA is not proper, I may note that prosecution has put on record comparative chart showing crimes registered against accused persons and the cases in which cognizance has been taken. So far as gang leader Krushna Sing is concerned in 5 cases under PITA and ITPA cognizance has been taken by the competent court. Same is the case with co accused Pinto Mauritius. Though he was acquitted in three cases still two cases are pending against him in the court. In Crime No. 3127/2014 registered by Yerwada Krushna Singh, Lipun Sahu and Pratap Sahu are co accused.

10] Having regard to the past criminal record it is clear that the organized crime syndicate headed by Krushna Singh is involved in similar offences. From the material on record it is clear that accused applicant Yuvraj Thapa has nexus with the organized crime syndicate and he is involved in present crime.

11] 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, more than 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.

12] It is argued that there is delay in trial. Hon'ble the Supreme Court in **Kalyanchandra Sarkar ..vs.. Rajesh Ranjan @ Pappu Yadav another 2004 (0) Supreme (Mah) 385** has held in para 14 that, "in serious offences like one punishable with life imprisonment or even death penalty, mere fact that the accused has undergone certain period of incarceration (three years in case before the Hon'ble Supreme Court) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe". The accused is booked for the offences under MCOCA which are serious and punishable with life imprisonment. As such delay cannot be the ground for bail.

13] In the result, I find that the applicant has failed to make out case for taking fresh view in his successive bail application. Hence, I pass the following order :-

ORDER

1] Bail application Exh.74 of accused applicant Yuvraj Keshav Thapa filed in connection with CR NO. 757/2017 registered by Yerwada Police Station, Pune, is rejected.

Pune.

Date :- 9th February, 2021

(Aniruddha Y. Thatte),
Additional Judge Special Court
(under MCOC 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	Mrs. S.M. Khisti Stenographer Grade I
Name of Court	Shri. A. Y. Thatte, District Judge 12 and ASJ, Pune.
Date of Order	09.02.2021
Order signed by PO on	10.02.2021
Order uploaded on	10.02.2021