

Order below Exh.142 in Spl. MCOCA Case No. 825/2021

The accused No.12- **Ajay Uvaraj Kasbe** and accused No.13- **Aniket Anant Kasbe** were arrested on 15/07/2021 in connection with C.R.No. 332/2021, registered in Yerawada Police Station under Sec. 307, 395, 452, 504, 506, 427, 201, 188 of IPC, under Sec. 4 r/w. 25 of the Arms Act, Sec. 37(1) r/w 135 of the Maharashtra Police Act, Sec. 7 of the Criminal Law Amendment Act, Sec. 3 of Epidemic Diseases Act, Sec. 51(B) of Disaster Management Act and Sec.3(1)(ii), 3(2) and 3(4) of MCOCA. They have filed this application for bail under Sec. 439 of Cr.PC. They contend that this is their first bail application and no other application is pending in any other Court.

2. This is a case where the accused are charged for the offence under Section 307 of IPC and subsequently, they were prosecuted under MCOCA, in which the informant Vanraj Jadhav sustained no injury. As per prosecution story, a group of 30 to 40 persons came to the informant on 01/07/2021 at about 9.30 p.m. when he was chatting with his friends Megraj Bhist and Vaibhav Kamble and on the ground of previous dispute between them, they tried to assault him with an intention to kill him. The informant managed to escape and then all the accused went to his house and caused damage to the door of his house by means of the weapons like scythe and swords in their hands. One witness Amir Shaikh was proceeding to his house and co-accused Shubham Singh tried to give blow of sword on him but he missed and the abrasive injury to his right thumb was caused. All the accused also went to the house of maternal uncle of the informant under suspicion that he might be there. One Juled Shaikh had been to that house and he was assaulted by accused Ajay Kasabe on his left leg and snatched his

mobile phone. They also caused damaged to the vehicles standing nearby and went away from the spot.

3. Heard Shri. Sonawane, the learned advocate for the accused and Shri Ghogare-Patil, the learned APP. It is alleged that the accused Ajay Kasbe assaulted Juned Shaikh on his leg but there is no allegation of any assault by the accused Aniket Kasbe. The crime chart has been produced on record and there are 3 crimes registered against the accused Ajay Kasbe and 1 crime id registered against accused Aniket Kasbe but according to the learned advocate for this accused, they are not committed as the member of the alleged organized crime syndicate. The co-accused Shivraj Mirgal, Sandip Ghodeswar and Deepak Madne have been released on bail by the Hon'ble High Court. Accused Ashutosh Adagale, Tejas Danane and Rohit Bhonde have been released on bail by this Court. Therefore, according to the learned advocate, this accused is also entitled to me released on bail. The reliance is placed on the judgments in *Prasad Purohit v/s State of Maharashtra [2017 ALL MR (Cri.) 4412]*, *Manohar v/s State of M.P [2007 (3) MPHT 349]* and also the bail orders passed by the Hon'ble Bombay High Court in Bail Application No.2149/2022 and Bail Application No.454/2023 wherein, the bail was granted on the grounds of long incarceration, parity and non-application of MCOCA.

4. Having considered the fact that the element of monetary gain is completely absent in this case, it is doubtful whether the provisions of MCOCA would be attracted. There is no specific role attributed to the accused Aniket. There is no serious injury caused by accused Ajay. The accused are the local residents and they are not at flight risk. The prosecution is opposing this application on the ground that these accused are the members of organized crime syndicate but

the record does not show such position. It is further contended that the accused will commit similar offences or will pressurize the prosecution witnesses, if released on bail. According to me, the suitable conditions can be imposed to take care of such possibilities. The investigation is completed and charge-sheet is filed. Therefore, further detention of this accused does not appear to be necessary. The Hon'ble High Court is pleased to release three accused on bail and this Court has released other three accused on bail considering the observations made by the Hon'ble High Court. I am of the view that these accused can also be released on bail on similar grounds.

5. Hence, for these reasons, I hold that the accused are entitled to be released on bail on certain conditions. Hence, the order.

ORDER

1. Bail application is allowed.
2. The accused **Ajay Uvaraj Kasbe** and accused No.13-**Aniket Anant Kasbe**, who were arrested on 15/07/2021 in connection with C.R.No. 332/2021, registered in Yerwada Police Station under Sec. 307, 395, 452, 504, 506, 427, 201, 188 of IPC, under Sec. 4 r/w 25 of the Arms Act, Sec. 37(1) r/w 135 of the Maharashtra Police Act, Sec. 7 of the Criminal Law Amendment Act, Sec. 3 of Epidemic Diseases Act, Sec. 51(B) of Disaster Management Act and Sec.3(1)(ii), 3(2) and 3(4) of MCOCA, be released on bail on their furnishing P.R. of Rs.30,000/- with surety of the like amount each on following conditions-
 - a) The accused shall not pressurize the prosecution witnesses and shall not indulge in any criminal activity.

b) The accused shall submit their address proof and phone details as well as phone details of his two close relatives.

c) The accused shall attend Yerwada Police Station on 5th day of every month till further order and maintain record of such attendance, which shall be signed by PSO of that police station and shall be produced before this Court as and when required.

3. Violation of any of the condition may intel a ground for cancellation of bail.
4. Bail application stands disposed of accordingly.

Pune

Date: 13/11/2024

(S.R. Salunkhe)

Special Judge (MCOCA), Pune.