

MHPU010161742021



Order below Exh. 179 in Spl. MCOCA Case No. 825/2021

The accused **Prafulla @ Gundya Ganesh Kasbe** has been arrested on 03/07/2021 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, under Section 3 & 7 of Criminal Amendment Act and under Sec.3(1)(ii), 3(2) and 3(4) of MCOCA. He has filed application for bail under Sec. 439 of Cr.PC. He contends that this is his 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 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 Juned 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 Smt. Parulekar, the learned advocate for the accused and Shri Ghogare-Patil, the learned APP. There is no allegation of any assault by this accused. The crime chart has been produced on record and there are 4 crimes registered against this accused but according to the learned advocate for this accused, they are not committed as the member of the alleged organized crime syndicate. Nine accused have been released on bail so far and co-accused Shivraj Mirgal, Sandip Ghodeswar and Deepak Madne have been released on bail by the Hon'ble High Court and rest of the accused have been released on bail by this Court. Therefore, according to the learned advocate, this accused is also entitled to be released on bail on the ground of parity. The learned advocate has filed the compilation of relevant investigating papers and the copies of earlier bail orders. According to the learned advocate, no specific role is attributed to this accused and he stands at par the accused released on bail. He is incarcerated in jail since last 4 years. The trial of the case will not conclude in near future. She therefore, submits that this accused may be released on bail.

4. The Investigating Officer has filed say (Exh.183) opposing this application on the ground that the involvement of this accused in the alleged crime has been disclosed from the statements of the witnesses and from the CCTV footage. The muddemal weapons have been recovered at the instance of this accused. He would pressurize the prosecution witnesses, if released on bail. The learned Spl.P.P. submits in tune with the say.

5. 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 this accused. He is the local resident and is not at flight risk. The prosecution is opposing this application on the ground that this accused was the member 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. The charge is framed. 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 six accused on bail considering the observations made by the Hon'ble High Court. I am of the view that this accused can be released on bail on similar grounds.

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

ORDER

1. The application is allowed.
2. Accused **Prafulla @ Gundy Ganesh Kasbe**, who was arrested on 03/07/2021 in connection with C.R. No. 332/2021 registered in Yerwada Police Station under Section 307, 395, 452, 504, 506, 427, 201, 188 of IPC, under Sec. 4 r/w. 25 of the Arms Act, under Section 3 & 7 of Criminal Amendment Act and under Sec.3(1)(ii), 3(2) and 3(4) of MCOCA, be released on bail on his furnishing PR. bond in the sum of Rs.30,000/- with one surety of the like amount on following condition-

- a) The accused shall not pressurize the prosecution witnesses and shall not indulge in any criminal activity.
 - b) The accused shall submit his address proof and phone details as well as phone details of two close relatives.
3. Violation of any of the condition may entail a ground for cancellation of bail.
 4. Bail application stands disposed of accordingly.

Pune
Date: 03/01/2024

(S.R. Salunkhe)
Special Judge (MCOCA), Pune.