

MHRG170001712022



**IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL RAIGAD**
ORDER BELOW EXHIBIT 5 IN SPECIAL MCOCA CASE NO.7/2022
(Dated 27/02/2023)

1] The applicant/accused No.2 **Sanjay @ Chog Narayan Dalavi** is seeking bail as per section 439 of Cr.P.C. in C.R.No.188/2021 registered with Neral police station for the offence p/u/sec.392, 385, 427 r.w.34 of IPC and under section 3 (1), 3(2), 3 (4) of MCOC Act 1999.

2] According to prosecution on 17/09/2021 at about 21.15 hours near ST bus stand, in Aayangar bakery, Neral, accused Nos.1 and 2 conspired, they demanded pestri and when price of the pestri was asked, the accused No.1 gave threats to the complainant and demanded ransom amount. That time the glass on the counter was broken and amount of Rs.3,000/- was forcibly taken away. According to prosecution accused persons have past history of similar crime and accused No.1 is the leader of the syndicate where as accused No.2 is the member.

3] Applicant/accused No.2 submits that, he was arrested on 09/11/2021 and since then he is behind bar. There is no prima facie allegation against him. The accused No.1 Sunil Bhoir had played the major role, who is released on bail. The provisions of MCOC Act are not attracted.

4] Prosecution opposes the bail application by filing say at Exh.6. it is submitted that, accused No.1 is leader of the gang and accused No.2 is member. They have committed similar offences in Raigad and Thane District. If bail is granted, accused No.2 will commit similar offence.

5] Heard Ld.Adv for accused No.2 and Ld.APP Shri C.Y.Patil for the State. Following point is formulated for determination, the points alongwith findings and the reasons thereto is as under.

SR. NO.	POINTS	FINDINGS
1.	Does applicant/accused No.2 has made out justifiable grounds for ... grant of bail as per section 439 of Cr.P.C. ?	In the affirmative
2.	What order ?	As per final ... order

REASONS

As to point No.1 :-

6] Admitted fact is that, accused No.1 was enlarged on bail and at present he is no more. It is also an admitted fact that TIP was conducted only to the extent of accused No.1 Sunil Bhoir. It is admitted fact that, house of the present accused was searched and in the seizure panchanama nothing was recovered by the IO. Admittedly 11 crimes are shown which relate to accused No.1 Sunil Bhoir. Against accused No.2 only two crimes are reflected in the say of prosecution.

7] In backdrop of these admitted facts, the bail application is to be decided. As accused No.1 was enlarged on bail, the bail application of accused No.2 is to be considered, keeping in mind this fact. If the material in the charge-sheet is considered, then, except FIR, rest of the ocular evidence is of hear-say nature. The informant mentions that on the night of incidence, accused Nos.1 and 2 came in his shop, demanded the pestri and thereafter by giving threats, forcibly took away cash amount from the counter. In the investigation there was no recovery of any article or cash from the house of the accused No.2. During investigation accused No.2 was not identified by the informant. The TIP is only of the accused No.1. thus prima facie accused No.2 satisfy that, he is not connected with the said crime.

8] In respect of past antecedents, it be noted that accused No.1 Sunil Bhoir was charged in 11 cases. The accused No.2 has only two cases out of which one is under investigation and other is pending. Hence, accused No.2 cannot be termed as habitual offender. Prima facie there is no material that, accused No.2 is member of syndicate, of which accused No.1 is the leader. The accused No.2 prima facie establishes that he has not committed crime and if enlarged on bail on conditions, he will not commit similar offence. Hence, I answer point No.1 in affirmative and pass following order.

ORDER

1. Application Exh.5 in Spl Case No. 7/2022 is allowed.

2. Applicant/accused No.2 **Sanjay @ Chog Narayan Dalavi** in C.R.No.188/2021 registered with Neral police station for the offence p/u/sec.392, 385, 427 r.w.34 of IPC and under section 3 (1), 3(2), 3 (4) of MCOC Act 1999 be released on P.B. of Rs.50,000/- and executing S.B. of like amount.
3. Applicant/accused No.2 to attend concerned police station **on every Saturday between 10.00 a.m. to 01.00 p.m.**, till conclusion of trial.
4. Applicant/accused No.2 shall not directly or indirectly induce or threat the prosecution witnesses and shall not commit any type of criminal activity.
5. Inform concerned police station.
6. Bail before this Court.

Panvel
Date :-08/03/2023.

Additional Sessions Judge,
Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the stenographer	: S.J.Sheth
Name of the Court	: Additional Sessions Judge, Panvel Raigad
Date of dictation	: 08/03/2023
Order signed by the P.O.on	: 08/03/2023
Order uploaded on	: 08/03/2023