

MHRG170004912023



**IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL RAIGAD
ORDER BELOW EXHIBIT 3
IN SPECIAL MCOC ACT CASE NO.49/2023
(Dated 18/12/2023)**

1] Applicant/accused Mahendra @ Ankit Pratap Gyanendra Sinh submits that he is arrested in C.R.No. 247/2022 registered with Khalapur police station for offence p/u/sec.394, 397 r.w.34 of IPC and under section 3 (1) 3 (2), 3 (4) of MCOC Act, 1999.

2] As per prosecution present accused and co-accused Nos.2 to 4 conspired and to extort money from the informant, pretended to be passengers and informed the informant that they want to travel upto Wakad, Pune and occupied his Ertiga car at Kharghar bridge. When the vehicle was on Mumbai-Pune Express Way ahead of Savroli toll plaza, one of the accused pretended to have symptoms of vomiting and asked to stop the vehicle to the informant. That time accused Nos.1 to 3 caught hold the neck of the informant, a knife was pointed out at him and forcibly golden chain, two silver rings were robbed. The accused Nos.4 occupied the driver seat and took the vehicle from the wrong side at a ATM center. The ATM card of the informant was forcibly taken, threats

were given and at the ATM machine amount of Rs.10,000/-, Rs.5,000/- twice were forcibly withdrawn.

3] Applicant/accused submits that, in the entire charge-sheet there is no prima facie evidence against him. There is no evidence about applicant/accused having aided or abetted the other members of the organised crime syndicate. Applicant is falsely implicated only on suspicion. The offences under MCOC Act are leveled with a malafide motive. On these and such other grounds accused pray for release on bail.

4] Heard Ld.Advocate Smt.Mansi Mhatre for the applicant/accused. Heard Spl.Prosecutor Shri C.Y.Patil for the prosecution.

5] The first ground raised is about the applicant/accused being behind bar for a year or more. It is submitted that, there is no major recovery in the investigation. The test identification parade is a weak piece of evidence. Ld.Adv.submitted that, the antecedents mentioned by prosecution in their say are the false cases, more particularly of Manpada police station which are of same type.

6] Ld.APP pointed out the prima facie evidence in the charge-sheet against the applicant/accused.

7] At the outset it be noted that, section 21(4) of MCOC Act, 1999, provides for two riders, before the grant of bail is

considered in MCOG Act cases. The first one is about an opportunity to the public prosecutor to oppose the bail application. The second one is more important, it is, when the public prosecutor opposes the bail application, the Court has to be satisfied that, there are reasonable grounds for believing that, accused is not guilty of such offence and that he is not likely to commit any offence, while on bail.

8] Thus, the prima facie accused has to satisfy that, there are no reasonable grounds to believe that he is not guilty and the onus on the accused also to show that he will not commit any offence while on bail.

9] In back drop of this aspect, if the prima facie material in the charge-sheet is considered then, the CCTV photographs clearly show the use of ATM card of the informant for withdrawing money from the ATM machine. The next material is the test identification report and memorandum statement. These aspects prima facie show that, the satisfaction of accused being not guilty is not met out. The second aspect is that, there are 8 previous crimes registered at Khalapur, Kalamboli, NRI Coastal, Manpada and Samta Nagar police stations against the applicant/accused. Hence, the second part that the accused will not commit any offence on bail, cannot be inferred when there are previous crimes which demonstrate the alleged conduct.

10] As per the prosecution present accused alongwith three co-accused persons, conspired and had forcibly robbed the informant. Section 3 (2) of the MCOC Act is about aiding and abating or facilitating commission of a crime of a organised syndicate. As there is prima facie material in the charge-sheet against applicant/accused and in view of two riders of section 21 (4), applicant/accused is not entitled to be released on bail. Hence, following order.

ORDER

1. Application Exh.3 stands rejected.
2. Inform concerned police station as well as jail authority by E-mail.

Panvel
Date :-18/12/2023.

(Jairaj D.Wadne)
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 : Smita Jayant Sheth
Name of the Court : Additional Sessions Judge,
Panvel Raigad
Date of dictation : 18/12/2023
Order signed by the P.O.on : 18/12/2023
Order uploaded on : 20/12/2023