

ORDER BELOW Exh. 43

1. Read application and say filed by learned APP. Heard learned APP.

2. This application is filed by accused No. 1 through jail in person for enlargement on bail and for expediting the trial of case. It is submitted in the application that, since the year 2017, he is in jail in this case which is registered for offences punishable under section 395, 420 read with 34 of Indian Penal Code. It is further submitted that, his 8 children, wife and his parents are dependent on him for their livelihood. He is from poor family. His family is deprived of bread and butter, because he is in jail. He is *Karta* of the family and his family has no other source of income. He further submitted that, since two years, there is no further hearing of the case and therefore, he prayed for expediting the trial or release him on bail.

3. Learned APP objected the application and contended that, offence is also registered against the accused as per Maharashtra Control of Organised Crime Act. (Hereinafter referred as MCOC Act) and it is pending against him. He is habitual offender. He is also in custody since more than 5 years in other cases. Due to lock down on the backdrop of Covid-19, the work of recording evidence in Court was stopped. Matter is part-heard and evidence of 4 witnesses is also recorded. The prosecution is ready to examine remaining witnesses. Therefore, he prayed to reject the application.

4. Considering the submissions of both parties and on perusing record of case, it reveals that, the accused no. 1 is in custody since 09/06/2017. The offences registered against him are punishable under section 395, 420 read with 34 of Indian Penal Code. The case is part-heard and evidence of 4 witnesses is already recorded. It is also clear from CIS record that, MCOG Act case bearing Special Case No. 321/2020 is pending before MCOG Special Court. As per section 10 of MCOG Act, the trial of any offence under that Act by Special Court shall have precedence over the trial of any other case against the accused in any other court and shall be concluded in preference of the trial of such other cases and accordingly, the trial of such other cases shall remain in abeyance. In view of this provision, the trial of this case is kept in abeyance and it can not be proceeded further, until decision of Special Case No. 321/2020. Therefore, it is held that, no purpose would be served by keeping the accused No. 1 in jail. The evidence is partly recorded. Hence, the accused no. 1 is entitled for release on bail subject to certain terms and conditions. Hence, I pass following order.

ORDER

1. The application is allowed.
2. The applicant/accused no. 1 Shri. Ladya Rama Bhosale is released on executing personal bond of Rs. 30,000/-, with one or two solvent sureties in like amount subject to following conditions -

- i) He shall produce his residential proof and mobile number before the Court.
 - ii) He shall not tamper the evidence of prosecution.
 - iii) He shall remain present in the Court on each date, without fail.
 - iv) He shall not commit any other offence during period of bail.
3. Inform bail order to the accused no. 1 through Jailer.

Date : 07/10/2021

(Smt. Richa D. Khedekar)
Additional Sessions Judge,
Solapur.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order are same word to word as per the original Judgment/Order.

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| (a) | Name of the Stenographer | : Mahesh Arjun Kore, Steno (Grade-I) |
| (b) | Court | : Ad-hoc District Judge - 3 & ASJ, Solapur. |
| (c) | Date of Judgment/Order | : 07/10/2021 |
| (d) | Judgment/Order signed by the Presiding Officer on | : 07/10/2021 |
| (e) | Judgment/Order uploaded on | : 07/10/2021 |

