ORDER BELOW APPLICATION (EXHIBIT 10)
IN SPECIAL CASE MCOCA NO. 1/2023
(STATE VS. PRATIK & OTHS.)
(PASSED ON : 22/01/2024)

Nature of the Application.

1. This an application filed by the accused No. 5-Ravindra Haribhau Gurav (for short 'accused') seeking bail under Section 21 of the Maharashtra Control of Organized Crime Act, 1999 (for short 'MCOC Act') read with Section 439 of the Code of the Criminal Procedure (for short 'Cr.P.C.') in Crime Register (for short 'C.R.') No. 28/2023 registered at Pandharpur Taluka police station under Sections 3(1)(ii), 3(2), 3(4) of the MCOC Act and Sections 307, 323, 506, 143, 147, 148 read with 149 of the Indian Penal Code (for short 'I.P.C.').

Contents in the Application.

2. The accused has contended that in the first information report (for short 'F.I.R.') lodged by the informant-Umesh Khade (for short 'informant') it is alleged that the accused and the other accused-Nikhil beat the informant by fist and kick blows and the other accused-Somnath beat the informant by stone. The other accused-Pratik assaulted the informant by knife causing grievous injury on 15/01/2023. The informant has named the accused and the other accused as the persons who assaulted him by knife, stone, fist and kick blows.

3. He is innocent and has not committed any offence. He is

falsely implicated in the offence. The only allegation against him is that he gave kick blows on the chest of the informant. Section 307 is not applicable. He is not involved in organized crime, as alleged.

4. He was not member of any organized crime syndicate. He has not committed organized crime, as alleged. The provisions of MCOC Act are not applicable.

5. He is in prison since 15/01/2023. He has permanent place of residence. If released on bail, he is ready to abide by the conditions imposed, will not tamper the evidence and will not abuse the process of Law and will not abscond.

6. On these grounds the accused has prayed to grant the application.

Contents in the Reply of the Investigating Officer.

7. The Investigating Officer (for short 'I.O.') has filed say (Exhibit 13) through Additional Public Prosecutor (for short 'A.P.P.).

8. The I.O. has strongly objected the application. He has contended that the investigation though is complete the accused and the other accused have committed serious offence. Several offences are registered against the accused and the other accused. The accused was member of organized crime syndicate.

9. If released on bail, the accused will threaten the witnesses, will tamper the evidence and will commit another serious offence.

10. On these grounds the I.O. has prayed to reject the application.

The Arguments.

11. I have heard Shri. S. P. Paricharak, advocate for the accused and Shri. S. V. Wangikar, A.P.P for the prosecution, in extenso.

12. They argued in consonance with the contentions in the

application, say and referring the documents produced on record. In order to avoid repetition it is not necessary to note those arguments.

Points and Findings.

13. Upon hearing the following points arise for my consideration and I record my findings thereon as under for the reasons to follow :-

	Points	Findings
1)	Whether the accused is involved in continuing unlawful activity, as alleged ?	Yes.
2)	Whether the accused was/is member of organised crime syndicate, as alleged ?	Yes.
3)	Whether the accused has committed an offence of organised crime, as alleged ?	Yes.
4)	Whether the provisions of the MCOC Act can be invoked against the accused, as alleged ?	Yes.
5)	Whether a case has been made out by the accused for granting the relief of bail under Section 21(4)(b) of the MCOC Act, as prayed for ?	No.
6)	What order ?	Application Rejected.

Relevant Statutory Provision Under Sections 2(1)(a),(b),(d),(e) and (f) and Section 21 of the MCOC Act.

14. Before I proceed to delineate the facts and to discuss the merits of the points taken for consideration, for better appreciation, it is appropriate to exposit the legal provisions under Sections 2 (1) (a), (b), (d), (e) and (f) and Section 21 of the MCOC Act, as here-in-below :-

14.1. Section 2(1) reads as under.-

2(1). In this Act, unless the context otherwise requires -

(a) **"abet", with its grammatical variations and cognate expressions, includes,-**

(i) **the communication or association with any person with the actual knowledge or having reason to believe that such person is engaged in assisting in any manner, an organised crime syndicate;**

(ii) x x x x x x

(iii) **the rendering of any assistance, whether financial or otherwise, to the organised crime syndicate;**

(b) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);

(c) x x x x x x x

(d) **"continuing unlawful activity" means an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organised crime syndicate or on behalf of such, syndicate in respect of which more than one charge-sheets have been field before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence;**

(e). **"organised crime" means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or**

coercion,or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any person or promoting insurgency

(f). **"organised crime syndicate" means a group of two or more persons who, acting either singly or collectively, as a syndicate of gang indulge in activities of organised crime;**

14.2. Under clause (d) of Section 2 (1) of the MCOC Act, "continuing unlawful activity" means an activity prohibited by law for the time being in force which is a cognizable offence punishable with imprisonment for three years or more, undertaken either singly or jointly, as a member of the organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed. **It is, therefore, clear that one or more charge-sheets, containing allegations that the alleged offence was committed either singly or jointly, as a member of the organised crime syndicate or on behalf of such syndicate, is sine qua non for invoking stringent provisions of the MCOC Act**. This follows that mere filing of more than one charge-sheets within the preceding period of ten years, alleging commission of cognizable offences punishable with imprisonment of three years or more, is not enough.

14.3. In order to constitute "continuing unlawful activity" following requirements of law should be satisfied :-

i. **Filing of more than one charge-sheets, alleging commission of cognizable offence punishable with imprisonment of three years or more;**
ii. **A charge-sheet should consists of averments, alleging unlawful activity undertaken either singly or jointly by the accused; as a member**

of organised crime syndicate or on behalf of such syndicate;

iii. **The cognizance of such offence is taken by the competent Court.**

14.4. Section 3 of the MCOC Act provides that whoever commits an offence of organized crime shall be punishable with death or imprisonment of life if the offence results in the death of any person and in other cases to be punishable with imprisonment to a term which shall not be less than 5 years but which may extend to imprisonment for life and fine.

14.5. Further, as per Section 3 of the MCOC Act any person who is a member of an organized crime syndicate or who conspires or attempts to conspires or abets shall be punishable with imprisonment for a term which shall not be less than 5 years but which may extend to life and fine.

14.6. Section 21 of the MCOC Act reads as under.-

21. Modified application of certain provisions of the code. -

(1) to (3) xx x x x x

(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless -

(a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that lie is not likely to commit any offence

while on bail.

(5) to (7) x x x x x x

<u>Reasons as to Point Nos. 1 to 6.</u>

15. The F.I.R. clarifies that the accused and the other accused-Nikhil beat the informant by fist and kick blows and the other accused-Somnath beat the informant by stone. The other accused-Pratik assaulted the informant by knife causing grievous injury on 15/01/2023. The informant has named the accused and the other accused as the persons who assaulted him by knife, stone, fist and kick blows.

16. The say filed by the I.O. (Exhibit 13) make it clear that the other accused-Pratik is the gang leader and with the help of his gang the accused and the other accused in prosecution of their common object assaulted the informant by knife, stone, fist and kick blows attracting Section 307 of the I.P.C. and MCOC Act.

17. The statement of the informant and the witnesses clarifies that the other accused-Pratik as the gang leader with the help of the accused and the other accused assaulted the informant by knife, stone, fist and kick blows. Under such circumstances when there is prima-facie evidence that the accused and the other accused in prosecution of their common object assaulted the informant by knife, stone, fist and kick blows, it cannot be said that the accused and the other accused are falsely implicated in the offence.

18. The statement of the informant and the witnesses showed that on the day of incident the accused and the other accused were present on the spot. The statements of the witnesses and the eye witnesses consistently supported the prosecution case which proves the accused's and the other accused's positive involvement in the offence.

Therefore, the accused is not entitled to the relief of bail.

19. In view of all the facts and the intention gathered from all the circumstances it could be said that case is made out against accused and the other accused under Section 307 of the I.P.C., prima-facie.

20. The accused is charged for the offences under Sections 3(1)(ii) and 3(2) and 3(4) of the MCOC Act.

21. In the present case, if the say filed by the I.O. (Exhibit 13) is perused, it transpires as follows :-

a) That 20 crimes/F.I.Rs. were/are registered against the other accused-Pratik and in all crime/F.I.R. charge-sheet is filed.

b) That the other accused-Pratik was externed for two years from Solapur city and entire Solapur district as per order dated 04/06/2019.

c) That 4 crimes/F.I.Rs. were/are registered against the other accused-Nikhil and in all crimes/F.I.Rs charge-sheet is filed.

d) That 2 crimes/F.I.Rs. were/are registered against the accused and in all crimes/F.I.Rs charge-sheet is filed.

22. So, it is clear like cloudless sky that the organised crime is committed by the organized crime syndicate of the other accused-Pratik, the accused and the other accused. Thus, the accused was/is charge-sheeted and tried before the competent Courts and as such there is indication of such offences constituting offence of "organised crime syndicate", against him, prima-facie.

23. The say filed by the I.O. (Exhibit 13) mentions two crimes/F.I.Rs. registered against the accused since the year 2017. The other accused-Pratik is the gang-leader and he with the accused and the

other accused is running their "organised crime syndicate" and most importantly it is clear that this offence was committed in continuation of unlawful activities of that "organised crime syndicate".

24. The say filed by the I.O. (Exhibit 13) mentions two crimes/F.I.Rs. registered against the accused since the year 2017. This showed association of the accused with the activities of their gang-leader-the other accused-Pratik and also their "organised crime syndicate" and most importantly it is clear that this offence was committed in continuation of unlawful activities of that "organised crime syndicate".

25. In order to apply the stringent provisions of the MCOC Act and considering the relevant provisions of the MCOC Act, it is mandatory that more than one charge-sheet alleging the commission of the offence punishable with imprisonment of three years or more ought to have been filed. **Therefore, the I.O. who submitted say (Exhibit 13) as well as the approval authority seems to have passed the prior approval order after application of mind and considering the fact that the offences charged against the accused and the other accused were committed by them as member of organised crime syndicate.**

26. TI Parade is primarily meant for investigation purposes. The object of conducting TI Parade is two fold namely :-

a) First is to enable the witnesses to satisfy themselves that the prisoner whom they suspect is really the one who was seen by them in connection with the commission of the crime.
b) Second is to satisfy the investigating authorities that the suspect is the real person whom the witnesses had seen in connection with the said occurrence.

27. The accused is identified by the witnesses during TI parade

as the person who is involved in an offence as alleged by the informant and it is transpired that he was present on the spot. The accused was the member of the gang of the other accused-Pratik. Under such circumstances it cannot be held that the accused is falsely involved in the offence and the argument advanced by Shri. Paricharak, advocate for the accused in that regard cannot be considered.

28. **Thus, after perusal of the entire material against the accused, it does disclose sufficient and concrete material which would, justify the invocation of the provisions of the MCOC Act against him as an "organised crime syndicate", prima-facie.** In such circumstances, I am satisfied that sufficient material is produced on record as part of the investigation justifying the invocation of provisions of the MCOC Act against the accused, at this stage. **Thus, the material on record is sufficient to establish that the various offences allegedly committed by the accused and the other accused were committed as members of the organised crime syndicate of the accused.** For this view I am buttressed by the following rulings relied by A.P.P. for the prosecution namely :-

(i) In the case of Govind Sakharam Ubhe Vs. State of Maharashtra, 2009 ALL MR (Cri) 1903 (for short 'Govind'), the Hon'ble Bombay High Court has observed :-

> "**For an activity to be a 'continuing unlawful activity' -**
>
> **a) the activity must be prohibited by law;**
>
> **b) it must be a cognizable offence punishable with imprisonment of three years or more;**
>
> **c) it must be undertaken singly or jointly;**
>
> **d) it must be undertaken as a member of**

an organized crime syndicate or on behalf of such syndicate

e) in respect of which more than one charge-sheet have been filed before a competent court.

The words 'in respect of which more than one charge-sheet have been filed' cannot go with the words 'a member of a crime syndicate' because in that case, these words would have read as 'in respect of whom more than one charge-sheet have been filed'.

But even otherwise, if all provisions are read together we reach the same conclusion. Section 2(1)(d) which defines 'continuing unlawful activity' sets down a period of 10 years within which more than one chargesheet have to be filed. The members of the crime syndicate operate either singly or jointly in commission of organized crime. They operate in different modules. A person may be a part of the module which jointly undertakes an organized crime or he may singly as a member of the organized crime syndicate or on behalf of such syndicate undertake an organized crime. In both the situations, the MCOCA can be applied. It is the membership of organized crime syndicate which makes a person liable under the MCOCA. This is evident from section 3(4) of the MCOCA which states that any person who is a member of an organized crime syndicate shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine, subject to a minimum of fine of Rs.5 lakhs. The charge under the MCOCA ropes in a person who as a member of the organized crime syndicate commits organized crime i.e. acts of extortion by giving threats, etc. to gain economic advantage or supremacy, as a member of the crime syndicate singly or jointly. Charge is in respect of unlawful activities of the organized crime syndicate. Therefore, if within a period of preceding ten years, one charge-sheet has been filed in respect of organized crime committed by the members of a particular crime syndicate, the said charge-sheet can be taken against a member of the said crime syndicate for the purpose of application of the MCOCA against him even if he is involved in one case. The organized crime committed by him will be a part of the continuing unlawful activity of the organized crime syndicate. **What is important is the nexus or the link of the person with organized crime syndicate. The link with the 'organized crime syndicate' is the crux of the term `continuing unlawful activity'. If this link is not established, that person cannot be roped in.**

The submission on behalf of the appellant is that even though all the four accused namely, A, B, C and D may be members of the organized crime syndicate since against each of the accused not more than one chargesheet is filed, it cannot be held that they are engaged in continuing unlawful activity as contemplated under Section 2(1)(d) of the MCOCA. Apart from the reasons which we have given hereinabove as to why such a construction is not possible, having regard to the object with which the MCOCA was enacted, namely to make special provisions for prevention and control of organized crime syndicate and for coping with criminal activity by organized crime syndicate, in our opinion, Section 2(1)(d) cannot be so construed. Such a construction will defeat the object of the MCOCA. **What is contemplated under Section 2(1)(d) of the MCOCA is that activities prohibited by law for the time being in force which are punishable as described therein have been undertaken either singly or jointly as a member of organized crime syndicate and in respect of which more than one charge-sheets have been filed. Stress is on the unlawful activities**

committed by the organized crime syndicate. Requirement of one or more charge-sheet is qua the unlawful activities of the organized crime syndicate.

In this connection, we must refer to the judgment of the Division Bench of this court (R.M.S. Khandeparkar & V.K. Tahilramani, JJ.) in Asif Khan Bashir Khan v. The State of Maharashtra in Criminal Appeal NO. 749 of 2007 decided on 16/10/2007. In that case, it was contended that the sanction to prosecute the accused under the MCOC Act was granted on the assumption that two charge-sheets are filed against them during the preceding period of ten years, when in fact, it was not so. This court after focussing its attention on the definition of the term "continuing unlawful activity" observed as under :

> "**However, the charge-sheet is essentially in relation to the offence committed in a matter. Merely because it relates to a particular person, once it is disclosed that such person is a member of the organised crime or organised crime syndicate and the offence is part of the continuing unlawful activity by either the organised crime or organised crime syndicate, it obviously would mean that the charge- sheet refers to, as defined in Section 2(d), the offence committed as part of a continuing unlawful activity by organised crime or organised crime syndicate and the person being a member of such organised crime or organised crime syndicate, such chargesheet can definitely be taken into consideration for the purpose of application of MCOC Act against any such person**."

In Deepak Bajaj v. State of Maharashtra &

Anr., 2008 AIR SCW 7788, while considering the precedential value of a judgment, the Supreme Court took a resume of several decisions rendered by it. The Supreme Court referred to its judgment in Ambica Quarry Works v. State of Gujarat & Ors. (1987) 1 SCC 213, where it has observed that the ratio of any decision must be understood in the background of the facts of that case and a case is only an authority for what it actually decides and not what logically follows from it. **In the light of this, we are of the opinion that the words 'more than one charge-sheet' contained in Section 2(1)(d) refer to unlawful activities of the organized crime syndicate. Requirement of more than one charge-sheet is qua the unlawful activities of the organized crime syndicate and not qua individual member thereof.**

In its judgment in Vinod Asrani v. State of Maharashtra (Special Leave Petition (Cri.) No.6312 of 2006 dated 21/2/2007, the Supreme Court has considered the same submission and observed that **non inclusion of the accused in the approval under Section 23(1)(a) of the MCOC Act is not fatal to the investigation qua that accused. The Supreme Court observed that Section 23(1)(a) provides a safeguard that no investigation into an offence under the MCOC Act should be commenced without the approval of the concerned authorities. Once such approval is obtained, an investigation is commenced. The Supreme Court further observed that those who are subsequently found to be involved in the commission of the organized crime can very well be proceeded against once sanction is obtained against them under Section 23(2) of the MCOC Act".**

(ii) Narendra Singh Vs. State of Maharashtra, 2015 ALL MR (Cri) 54 (for short 'Narendra'), wherein the Hon'ble Bombay High Court has observed :-

"**28.Section 2(d) defining continuing unlawful activity does not envisage charge-sheets in relation to "organized crime" as defined in Section 2(e) of the Act. It also nowhere stipulates that the charge-sheets should be against the accused in last charge-sheet under this Act or any of his co-accused in such charge-sheet**. This scheme is itself sufficient to negate the challenge of present appellant. Charge-sheets in relation to offences punishable with lesser punishments filed against an accused as part or representative or member of a crime syndicate or against its other members, may be relevant to demonstrate the existence of such a syndicate. Similarly, the existence or involvement of any organized syndicate or fact that accused in charge-sheets already filed acted for or were acting at the instance of such a syndicate or co-accused were its part or members or representatives, may itself surface later on i.e. after filing of earlier charge-sheets or earlier trial and hence, the said existence or capacity or involvement of or on behalf of the crime syndicate would not find mention in any of such previous charge-sheets. Said assertion may, however, figure in the impugned charge-sheet to be tried and filed against a person like present accused. In the present matter, the impugned charge-sheet expressly refers to those earlier chargesheets and to appellant as gang leader of such a crime syndicate. We feel that in present trial also, the prosecution can show that the earlier charge-sheets were against the crimes of a syndicate or co-accused found now associated with him, happen to be part of such a syndicate. If the arguments of appellant are accepted, words deliberately not used in Section 2(d) by the State Legislature are required to be read in to it and a rider deliberately omitted by it, is required to be artificially inserted into it. This is against the settled cannons of interpretation. **Section 2(d) does not contemplate any "accused specific"**

ingredient and needs independent interpretation uninfluenced by Section 2(e). This definition gives primacy to direct or indirect role played by the syndicate and individuals roped in subsequent charge-sheet become relevant only because of their connection with earlier crime or accused therein. Section 2(e) is a specie carved out of a larger concept seen in Section 2(d) by the State Legislature. Thus to control organised commission of crimes, commission of at least two cognizable offences, completion of investigation of the same, cognizance of the charge-sheets filed in relation thereto meet requirements of Section 2(d). Section 2(e) adds one more rider to it.

If mention of fact that such continuing unlawful activity was committed by the accused or his colleagues either singly or jointly, as a member of any organised crime syndicate or on behalf of such syndicate, is held a pre-requisite in more than one charge-sheet in previous ten years, the purpose of enactment itself would be defeated. Commission of first crime by an individual or few accused together will never show the requisite link or affinity needed to demonstrate either existence or participation of or on behalf of a syndicate. It may surface after more than one such offences are committed or charge-sheets are filed. Therefore, only the State Legislature has given wide time frame of 10 years to see that more than one charge-sheet of which cognizance is taken by the competent court are filed in relation to such continuing unlawful activity. Earnest will of the State Legislature to prevent organised crimes is also apparent from the words "either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate" also reveal a very broad field thrown open before the investigating agency. After more than one

> **such charge-sheets only the investigating officer/s may get some clue or hint about involvement of a syndicate and not otherwise.** Hence, this practical difficulty and legislative resolution thereof also shows absence of any merit in the preliminary objection raised by the appellant. In this view of the matter and having regard to the decision in the case of Govind Ubhe (Supra) with which we respectfully agree, we do not find any necessity to make a reference to a Larger Bench in this case.
>
> 29. In the present case undoubtedly the appellant is facing prosecution in four previous crimes within preceding 10 years and even if we exclude Crime No. 3110/2011 under Sections 294 and 506 of Indian Penal Code and for that matter even Crime No. 79/2007, Police Station Jaripatka under Sections 377, 397, 367 read with Section 34 of Indian Penal Code, having regard to the previous charge-sheets against the appellant and the co-accused and the nature of the offences would prima facie show the existence of organised crime syndicate. In the present case, prima facie, the allegations are relatable to a dispute with regard to the dealing in real estate. The submission on behalf of the appellant that there is some discrepancy as to whether it was the appellant who was intermeddling with the property in which deceased was dealing or otherwise, in our considered view, would not be significant at this stage. **The fact remains that there is prima facie material to show the commission of an offence of the nature which the MCOC Act seeks to control or prevent**".

(iii) In the case of Sachin Bansilal Ghaiwal Vs. State of Maharashtra, 2015 ALL MR (Cri) 525 (for short 'Sachin'), the Hon'ble Bombay High Court has observed :-

> "**Thus, according to us and in our humble opinion and after giving our earnest**

> **consideration, the expression 'member' as has been termed in Section 2(1)(d) of the MCOC Act can be interpreted and defined as, a person who participates in the crime either actively or passively or a person who facilitates the commission of the crime committed by the organized crime syndicate or on behalf of the organized crime syndicate, automatically becomes the member of the said crime syndicate which commits the offence or on whose behalf the offence in question is committed, as contemplated under Sec. 2(1)(d), 2(1)(e), Section 3 and other provisions of the MCOC Act.**
>
> The said intention of the legislature can further be gathered from the expression which is used in sub section (2) of Section 3 of the MCOC Act i.e. "any act preparatory to organised crime" has direct bearing with the expression 'member' which appears in Section 2(1)(d) of the MCOC Act and therefore taking into consideration the intention of the legislature, widest possible meaning has to be given to the expression 'member' as is appearing in Sections 2(1)(d), 2(1)(e), Section 3 and other provisions of the MCOC Act".

29. The unreported decisions namely (i) Akshay Atmaram Rathod Vs. State of Maharashtra, Criminal Appeal No. 786 of 2022, decided on 13/02/2023 and (ii) Dinesh Bhondulal Baisware Vs. The State of Maharashtra, Criminal Application (BA) No. 424 of 2016, decided on 07/07/2016 (copies obtained from Docid # IndiaLawLib software), relied by Shri. Paricharak, advocate for the accused are of no avail for the accused because the Hon'ble Bombay High Court has communicated to all the Courts in the State of Maharashtra that citing decisions of this court, other High Courts and Hon'ble Supreme Court from Licensed software is risky. Except very few, others are not Law

Reports. The mistakes therein may prove costly.

30. Even if for the sake of argument the unreported decisions relied by Shri. Paricharak, advocate for the accused in support of his submissions are referred then also those are of no avail for the accused in view of rulings relied by A.P.P. namely Govind, Narendra and Sachin, supra.

31. I am unable to persuade myself with the argument advanced by Shri. Paricharak, advocate for the accused that he is entitled to be released on bail because (i) he is not involved in any criminal activity (ii) the only allegation against him is that he gave kick blow on the chest of the informant and (iii) he is falsely implicated in this case. The reasons are :-

- That the other accused-Pratik as the gang leader has played vital role in committing the offence, when he and the other accused assaulted the informant by knife, stone, fist and kick blows, prima-facie.
- That positive involvement of the accused is brought on record in an offence under Section 307 of the I.P.C. and MCOC Act.
- That the offence alleged to have been committed by the accused is very serious.
- That the possibility of the accused tampering with the witnesses cannot be ruled out considering the nature of offence.
- That there is nothing on record to prove enmity or false implication of the accused, as alleged.
- That considering the criminal antecedents of the

accused there is every possibility that after release on bail, he will abscond and will commit similar type of offence with which he is charged.

- That considering my discussion, supra.

32. It is well settled that the provision of bail under Section 439 of the Cr.P.C. is meant for saving the innocent person from unnecessary detention. The said provision cannot be used for a person, who prima-facie, is involved in criminal activities.

33. To sum up, the offence with which the accused is charged is of serious nature. The evidence brought on record by the prosecution is sufficient to hold his involvement in committing the offence, prima-facie. If the application is granted it will hamper the trial. The accused, if granted bail, will definitely create hurdles in the trial. The accused has criminal antecedents.

34. Considering the merits of the matter, gravity of the offence and positive involvement of the accused, he does not deserve release on bail. The apprehension in the mind of I.O. that the accused will abscond, will tamper the prosecution evidence and will commit another serious offence seems to me genuine. The application is not covered by the provision under Section 21(4)(b) of the MCOC Act and is devoid of merits. If that be so, there is no other alternative before me than to reject this application for bail.

35. Consequently, I hold the accused is involved in continuing unlawful activity and was/is member of organised crime syndicate and has committed an offence of organised crime, therefore, the provisions of the MCOC Act can be invoked against him and no case has been made out by him for granting the relief of bail under Section 21(4)(b) of the MCOC Act.

36. It is made clear that the observations made in this order are made for the limited purpose of this application only and all parties are at liberty to agitate their respective cases at the time of trial in the case on merit without being prejudiced even in the least by any of the observations made in this order.

37. Accordingly, I answer point Nos. 1 to 4 in the affirmative, point No. 5 in the negative and point No. 6 as application rejected.

38. In the result, following order :-

ORDER

The application (Exhibit 10) is rejected.

(Pronounced in the open Court).

Sd/-

Date : 22/01/2024.

(M.B.Lambe)
Special Judge (MCOCA),
Pandharpur.

CERTIFICATE

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

(a)	Name of the Stenographer	:	Sou. M. M. Kulkarni
(b)	Court	:	M. B. Lambe, District Judge – 1 & Addl. Sessions Judge, Pandharpur.
(c)	Order signed by P.O. on	:	22/01/2024
(d)	Order uploaded on	:	29/01/2024