

MHST170005542020



**IN THE COURT OF SPECIAL JUDGE UNDER M.C.O.C. ACT,
1999 VADUJ, AT : VADUJ, DISTRICT: SATARA.**

Special Case (MCOCA) No. 29/2020

The State of Maharashtra

Vs.

Dattatraya Ramchandra Jadhav etc.

ORDER PASSED BELOW APPLICATION EXH. 65

(Passed on this 27th day of June 2023)

After going through the contents in the application and say/remarks filed by the Learned APP for the State and material available on record following points arise for my determination and I have recorded my findings thereon with reasons thereto which are as follows :

Sr.No	Points	Findings
1]	Whether there are sufficient grounds to grant bail to the applicant/accused in accordance with the provision of Sec. 439 of the Code of Criminal Procedure on the ground of change in circumstance ?	In the Negative.
2]	What order ?	As per final order.

REASONS

AS TO POINT NOS. 1 & 2:-

2. The offence punishable under Sections 143, 147, 384, 385, 452, 120B, 75, 504, 506, 507 of the Indian Penal Code and offence under Section 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 is registered against this applicant-accused and other accused at Pusegaon police station under C.R. No. 02/2018 on the basis of report filed by Rajkumar Nivrutti Jadhav residing at Pusegaon, Taluka Khatav, Dist.Satara filed at Satara City Police Station on 31.12.2017 which was forwarded to Pusegaon Police Station under 0/2017 on 31.12.2017.

3. It is alleged in the report that on a day in the month of October 2017 at about 3:00 p.m. Mangesh Chandrakant Sawant residing at Vikasnagar, Satara who is one of the accused in offence under consideration entered at home of the complainant and threatened him as well as abused him on account of transaction of immovable property of his brother-in-law. After lapse of somewhere 13 days of aforesaid incident, Dattatraya Jadhav, Mangesh Chandrakant Jadhav and this applicant-accused and other 8 to 10 persons accompanying with them came by Innova vehicle having registration no. 302 of gray colour and Scorpio vehicle at Pusegaon at about 2:00 p.m. and called the complainant near Siddhanath Patasanstha and put demand of an amount of Rs.16,00,000/- for the the settlement of Court matter in respect of the landed property of his brother-in-law Sarjerao Mane and threatened the complainant to kill on failure to pay the amount in question and thereafter, they

were threatening him by means of phone call in aforesaid manner from time to time. The report under consideration is filed by the complainant on 13.12.2017. The investigation of offence was set in motion. It was transpired in investigation that there is organization to commit crimes in aforesaid nature amongst the applicant-accused and other accused and the persons who were accompanying with the applicant-accused on that day. This applicant-accused Mangesh Chandrakant Sawant, Pradip Dhondiram Ghadge are the members of said crime organization. The accused Dattatraya Ramchandra Jadhav is head of the said organization. The sanction was accorded by the Inspector General of Police of Kolhapur Region by way of his order no. CR/11/MCOCA/Puseagon-2/18-2377 dated 14.03.2018 to add the allegations for the offence p/u/Sec. 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999. Accordingly, the allegations are added on 19.03.2018. The investigation of offence under consideration is carried out and the charge-sheet is also filed against other accused on 22.10.2018 by way of order of State Government having no. DGP/23/54/MCOCA/76/2188 dated 22.10.2018. The supplementary charge-sheet is also filed against this applicant-accused when he is arrested in connection of this offence on 18.01.2023.

4. The Ld. Counsel for the applicant-accused explained entire background of the report under consideration by way of his arguments in detail. She submitted that no any offence as alleged in the report is occurred at all. This applicant-accused is not involved in the offence under consideration. He has not committed any

offence. He submitted that entire case of prosecution rests on documentary evidence collected during the course of investigation. The ad-interim anticipatory bail was granted to this applicant-accused, however, the application was dismissed in accordance with the provisions of Section 21(4) of M.C.O.C. Act. Thereafter, the applicant-accused *suo-moto* appeared before this Court on 18.01.2023. In order to explain entire episodes of events in connection of transaction in question, especially the intention of the complainant to set the law in motion by way of report under consideration as well as to bring the conduct of Sarjerao Mane, his son Harishchandra and this applicant-accused for the decision of this application, the Ld. Counsel invited my attention towards the documents produced along with list Exh.76 in this case. Relying upon these documents, he submitted that one Arjun Mane is brother of Sarjerao Mane. Parubai and Sarubai are their sisters. The partition was taken place amongst them in respect of 198R landed property owned by them by registered partition deed dated 06.06.2011. In said partition 123 Guntha land was allotted to Arjun Mane, whereas 25 Guntha land each i.e. 75Guntha land was allotted to Sarjerao, Sarubai and Parubai respectively. The Ld. Counsel invited my attention towards the copy of said partition-deed. Relying upon said documents, he submitted that the deed is registered deed. Though it is alleged in the report as well as in the plaint in Civil Suit filed by Harishchandra Mane who is son of Sarjerao that Sarjerao Mane is credulous person, he do not know what he is exactly doing. The contention in this regard itself is misleading. The subsequent conduct of Sarjerao to enter into

various transactions after receipt of title to the property along with her sister goes to show that the partition in question was taken place by metes and bounds and in accordance with nature of land. To strengthen these submissions, the Ld. Counsel invited my attention towards another document of agreement-to-sell dated 09.06.2011 executed by Sarjerao Mane and his sisters in favour of Geetabai Laxminarayan Zanwar. Relying upon this document, she submitted that they have agreed to sell 75 Guntha land for the consideration of Rs.70,00,000/- and received an amount of Rs.10,00,000/- by way of earnest money. She added that, the agreement to sell his registered document. As the property in question is of new tenure, prior permission of competent authority to execute the sale-deed was necessary. The Special Power of Attorney was executed by them to Geetabai Zanwar and other co-owners. These documents go to show that whatever the documents executed by Sarjerao Mane were executed in legal manner. No any sort of force was obtained applied. The Ld. Counsel invited my attention towards the copy of sale-deed dated 19.01.2015. Relying upon this document, she submitted that Sarjerao Mane and her sisters have also executed the sale-deed in respect of said land on 19.01.2015.

5. The Ld. Counsel submitted that the suit claim of Reg.C.S.No. 385/2015 was filed by Harishchandra Mane who is son of Sarjerao Mane in the Court of C.J.S.D., Satara. The partition-deed dated 06.07.2011 as well as sale-deed dated 19.01.2015 were challenged by him by way of said suit claim. The notice of *lis-pendens* was also duly registered by him on 23.02.2016. In support

of these submissions, the Ld. Counsel invited my attention towards the photo-copy of plaint produced along with list Exh.76. Relying upon the document of page no.97 out of documents of list Exh.76, she submitted that the said suit claim is dismissed in default on 20.01.2017 in accordance with order passed below Exh.1. She added that the said order is not challenged or no relief to set aside the said order is prayed by Harishchandra Mane. To point out the subsequent conduct of said Harishchandra Mane, she submitted that he has signed consent-deed which is duly registered at Sub-Registrar office. He has given consent for withdrawal of all litigations raised by him against purchaser. He has also given consent to handover peaceful possession of the land to the purchaser as mentioned in agreement-to-sell. The Ld. Counsel submitted that the acts of Harishchandra Mane to put signature on consent-deed subsequent to registration of FIR has made it clear that there was not dispute in between them over the issue of land. The Ld. Counsel submitted that it cannot be said at this prima facie stage that Sarjerao Mane signed on the aforesaid document under the threat of anybody including this applicant-accused and other co-accused. The Ld. Counsel also submitted that the informant has no locus-standi to lodge the FIR against the accused persons especially when Sarjerao Mane has willfully signed various deeds before Sub-Registrar and further received consideration amount against the disputed property.

6. In order to point out the conduct of Sarjerao Mane, the Ld. Counsel invited my attention towards the statement of Akash

Dattatraya Jadhav produced at page no. 41 along with documents of list Exh.76. Relying upon his statement, he submitted that Akash Dattatraya Jadhav who is son of co-accused Dattatraya Jadhav has explained the purpose of visit of Dattatraya Jadhav. The Ld. Counsel pointed out that Akash Jadhav has stated that the document known as '*Visar Pavti*' was executed by Sarjerao Mane is in favour of grand-mother of Dattatraya Jadhav prior to aforesaid transactions. However, he avoided to perform the said transaction and sold the said property to Geetabai Thakkar and others. The amount of Rs.3,25,000/- was received by Sarjerao Mane as earnest money. On the background of said transaction, Akash stated that Dattatraya Jadhav had been at Pusegaon to insist Sarjerao Mane to sell said land in the name of his grand-mother or return the amount of earnest money. The Ld. Counsel submitted that Akash has also stated in his statement that Chandrakant Vishnu Sawant i.e. applicant-accused and Vijay Maruti Kshirsagar were the witnesses on said document, therefore, their presence cannot be questioned. In order to point out defrauding nature of Sarjerao Mane, the Ld. Counsel invited my attention towards another document produced at page no.123 along with list Exh.76, the copy of affirmation of Sarjerao Dattu Mane in Special Civil Suit No. 222/2010 is the said document. The contents in said affirmation goes to show that Sarjerao Mane and her sister agreed to sell the suit property to one Pramod Abaso Patil for consideration of Rs.55,00,000/- and received an amount of Rs.20,000/- as an earnest money in the year 2002. Pramod Patil was constrained to file Special Civil Suit No. 222/2010. Relying upon these documents, she submitted that the

conduct of Sarjarao Mane goes to show that he is in habit to sell his land to various persons and thereby receive consideration for the same and further deceive them. So far as the investigation is concerned, she submitted that nothing is recovered from this applicant-accused. No any incriminating material has come on record against this applicant-accused.

7. The Ld. Counsel submitted that the Hon'ble High Court has granted bail to co-accused Pradip Ghadge on 16.02.2021 in Criminal Bail Application 1076/2019. He submitted that role shown to be played by accused Pradip Ghadge is identical or greater than the role shown to be played by this applicant-accused. She submitted that ground of parity is also available to the applicant-accused in this case. The Ld. Counsel also placed her reliance upon the observations of Hon'ble Apex Court in the case of *Mohamad Iliyas Mohamad Bilal Kapadia Vs. The State of Gujarath in Special Leave to Appeal (Cri.) No.1815/2022 Dt.30.05.2022* and submitted that the Hon'ble Apex Court has made it clear that as per provisions of GCTOC Act (M.C.O.C. Act), there must be two charge-sheet must have been filed within a preceding period of 10 years and that the Courts have taken cognizance of such offences. Here in the case in hand, the said criteria is not fulfilled. Except one charge-sheet no another charge-sheet is filed against the applicant-accused. Therefore, bar under Section 21(4) of the M.C.O.C. Act does not come into play. The Ld. Counsel again submitted that the transaction in question is exclusively of civil nature. The land owner Sarjerao Mane himself is in habit to enter into transactions with

various persons to grab money from them. On the background of all the aforesaid circumstances, if the report under consideration is considered, there is sufficient material on record to point out that this applicant-accused has not committed any offence as alleged in the report. There are reasonable grounds for believing that this applicant-accused is not guilty of such offence. There are also suspicious circumstances that there is no any likelihood to commit such offence when this applicant-accused will be released on bail.

8. The Ld. A.P.P. for the State while resisting the application under consideration by way of his remarks, vehemently submitted that there is active participation of the applicant-accused and other accused in offence under consideration. He invited my attention towards the allegations in F.I.R. which are reproduced in his remarks and submitted that the applicant-accused has committed the criminal act alleged in the report along with co-accused. To substantiate his arguments, the Ld. A.P.P. also explained entire background. He submitted that Lalita who is real sister of the complainant is wife of Sarjerao Mane. Harishchandra who is son of Sarjerao Mane is residing along with the complainant Rajkumar at Pusegaon. To point out the economic position of the family on the background of all the aforesaid events narrated in report, the Ld. A.P.P. submitted that Harishchandra is constrained to work in garage at Pusegaon towards the complainant for his present livelihood. The said circumstances go towards the root of the case. The Ld. A.P.P. submitted that though the applicant-accused and co-accused are pointing out the execution of document such as

partition-deed etc. the partition-deed itself is in question in all these transactions. Because Sarjerao Mane is a person of nature to strengthen the submissions in this regard the Ld. A.P.P. pointed out that just 25R land is allotted into the share of Sarjerao and his other two sisters though they were entitled to seek at least 50R land each in accordance with law. Still merely 25R land is allotted into their share. The Ld. A.P.P. invited my attention towards the allegations in report and submitted that this applicant-accused and co-accused Pradip Dondiram Ghadge have got executed the document in question in their favour by showing that the property in question is sold for a consideration of Rs.70,00,000/- and they are trying to grab possession of the property merely on the basis of consideration of Rs.10,00,000/-. When Harishchandra realized the said fact, he was constrained to file the suit claim in competent Civil Court at Satara. Mangesh is son of the applicant-accused Chandrakant. The Ld. A.P.P. pointed out me the events occurred in October 2017 narrated in report and submitted that though this applicant-accused was aware of the fact that the litigation in respect of said land is going on, he was threatening the complainant by way of mobile phone to execute the document in favour of Thakkar, Giri and Zanwar by accepting the amount which they are offering. Mangesh had been to Pusegaon in connection of said transaction in October 2017. The complainant was threatened by Mangesh at that time. At that time, he threatened the complainant that Dattasheth is coming towards him and he has to accept the amount offered by him without any hesitation and execute the document in question and on failure to do so, he has to face the consequences as alleged in the

report. On the background of said incident, the incident reported in F.I.R. under consideration is occurred. He added that the incident in question is occurred to apply criminal force as an amount of Rs.10,00,000/- was handed over and possession of the land was not received on the background of the suit claim filed by the complainant. The Ld. A.P.P. submitted that the incident in question is occurred in order to release the property with the help of Organized Crime Syndicate. This applicant-accused was absconded since the registration of offence. If this applicant-accused is released on bail, then there is possibility of tampering of evidence as well as creation of pressure. As this applicant-accused was absconded, there is no any likelihood to appear in the Court on each and every date. The offence under consideration is of serious nature. To counter the submissions of Ld. Counsel for the accused, the Ld. A.P.P. submitted that whether all the aforesaid documents in question has taken place with free consent or not, whether those documents are binding on sisters as well as brother of complainant needs to be considered at the time of trial of this case. Therefore, at this prima facie stage, the documents cannot be considered. The Ld. A.P.P. invited my attention towards the provisions of Section 21(4) of the M.C.O.C. Act and submitted that there is no sufficient material available on record to the satisfaction that there are reasonable grounds for believing that the applicant-accused is not guilty of offence and that he is not likely to commit any such offence while on bail.

9. I have gone through the allegations in report, material

placed on record on the background of submissions of the Ld.A.P.P. for the State and Ld. Counsel for the applicant-accused. At the outset, it is necessary to consider what exact material available on record with reference to the incident occurred on 31.12.2017 to set the law in motion on the part of the complainant to protect his rights. The applicant-accused is trying to twist the case by pointing out the subsequent events or the transactions taken place between themselves and said Sarjerao Mane or other sharers. Here, in the case in hand, the grievances raised by complainant Rajkumar Nivrutti Jadhav is necessary to be considered. The Ld. Counsel for the applicant is pointing out the documents executed by Sarjerao Mane etc. which are not necessary to be considered. It is necessary to see whether there are reasonable grounds to the satisfaction of this Court for believing that the applicant accused is not guilty of such offence. The exact situation in respect of the subject matter on 31.12.2017 is necessary to be considered. There is absolutely no any material available on record at this prima facie stage that the incident as reported in report under consideration is not occurred at all. The occurrence of incident whether the execution of subsequent documents is out come of the incident reported in report is necessary to be considered in this case. At this prima facie stage, the material which has come on record goes to suggest that the accusation for an offence punishable under Section 143, 147, 384, 506, 149 of the Indian Penal Code and accusation for an offence under Sections 3(1)(ii), 3(2), 3(4) is well founded. There is sufficient material at this prima facie stage on record to point out that the offence under consideration is outcome of one of the

criminal act of Organized Crime Syndicate done on the date of incident as alleged in report. The applicant-accused is one of the member of the said Syndicate.

10. The submissions of the Ld. Counsel for the applicant-accused based upon documents of list Exh.76 cannot be considered at this prima facie stage as full-fledged evidence which will come on record on the background of grievance of complainant is necessary to consider to appreciate the same. The burden lies on applicant-accused in accordance with the provisions of Section 21(4) of M.C.O.C. Act to bring such material on record to the satisfaction of this Court that there are reasonable grounds for believing that he is not guilty of such offence. The documents proved on record along with list Exh.76 are not to the satisfaction considering the nature of case and accusation raised by complainant based upon the incident reported in F.I.R. under consideration.

11. The Ld. Counsel for accused has placed her reliance upon the observations of Hon'ble Apex Court in the case of *Mohamad Iliyas Mohamad Bilal Kapadia Vs. The State of Gujarath in Special Leave to Appeal (Cri.) No.1815/2022 Dt.30.05.2022*. The said observations are in respect of the provisions of GCTOC Act and not in respect of M.C.O.C.Act 1999. Therefore, I am of the bonafide view that the observations are not applicable to the case in hand. The submissions of the Ld. Counsel for the applicant-accused based upon the ground of parity are also not acceptable. Because the role of this applicant-accused appears to

be greater than the role of co-accused Pradip Ghadge. Therefore, the said ground is not available. In view of all the aforesaid discussions, I have come towards the conclusion that there is no sufficient material available on record to the satisfaction of this Court that there are reasonable grounds for believing that the applicant-accused is not guilty of such offence. The offence under consideration is of serious nature. The possibility of tampering of evidence as well as creation of pressure upon prosecution witnesses cannot be ruled out in given circumstances. Therefore, it will not be just and proper to release this applicant-accused on bail as prayed. Therefore, I answer point no.1 in negative and proceed to pass the following order.

ORDER

1. Applications stand rejected.
2. Both parties to take note of this order.

(Pronounced in Open Court)

Place : Vaduj
Date : 27.06.2023

(Rajendra V. Huddar)
Additional Sessions Judge,
as well as designated Special
Court under M.C.O.O. Act,1999