

(2006) 05 SC CK 0050

In the Supreme Court Of India

Case No : Criminal Appeal No. 640 of 2006 (Arising out of SLP (Criminal) No. 959 of 2005)

Babanrao Tukaram Ranjane

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 12-05-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438(2), 439
Maharashtra Control of Organised Crime Act, 1999 — Section 21(4), 24, 3, 3(2), 3(5)
Penal Code, 1860 (IPC) — Section 120B

Citation : (2006) 2 ACR 1915 : AIR 2006 SC 3604 : (2006) AIRSCW 3528 :
(2006) 2 ALT(Cri) 200 : (2006) CriLJ 3619 : (2006) 11 JT 33 : (2006) 3 PLJR
184 : (2006) 5 SCALE 625 : (2006) 9 SCC 422 : (2006) 2 SCR 631 Supp :
(2006) 4 Supreme 214

Hon'ble Judges : P. K. Balasubramanyan, J;K. G. Balakrishnan, J

Bench : Division Bench

Advocate : A.V. Savant, S.V. Deshpande and Anuradha Rustagi, for the Appellant; Sushil Kumar Sandhya Goswami, Vikas Sharma, D.S. Mahra, Ashiesh Kumar and P. Parmeswarn, for the Respondent

Final Decision : Allowed

Judgement

P.K. Balasubramanyan, J.—Leave granted.

2. The appellant challenges the order of the Special Judge of the Bombay High Court rejecting his application for bail u/s 439 of the Code of Criminal Procedure (hereinafter referred to as 'the Code') in C.R. No. 135 of 2002 registered at Bund Garden Police Station, Pune. The crime is one registered under the relevant provisions of the Indian Penal Code and Sections 3(2), 3(5) and 24 of the Maharashtra Control of Organized Crime Act, 1999 (hereinafter referred to as 'the MCOCA') The crime was originally registered on 7.6.2002 against three accused. But, as the investigation progressed, several others were brought in as accused and ultimately as on the day of making the application before the Special Court, 65 persons have been arraigned as accused and shown as

arrested. The appellant is accused No. 62. The appellant was arrested on 8.12.2003.

3. It may be stated that originally the case was being investigated by the Bombay Police. But considering the persons involved and the alleged connivance of some of the officials of the Bombay Police, this Court directed the handing over of the investigation to the Central Bureau of Investigation (hereinafter referred to as 'the CBI') and the CBI took up the investigation. It is submitted by the learned Counsel appearing for the CBI that amended charge-sheets have been filed and he complained that framing of charges is being stalled by the accused by trotting out one reason or another. Thus, though the case was ultimately posted for framing of charges to 14.3.2006, the charges had not been framed by the time the hearing of the appeal was concluded.

4. The appellant was, at the relevant time, the Deputy Superintendent of Stamps. According to the supplementary charge-sheet, the appellant was aware of the activities of Abdul Karim Lad as Telgi since December 1998 and was rendering help and support in the commission of the organized crime of printing and supplying fake stamps on a large scale and had facilitated the commission of continuing unlawful activities of the organized crime syndicate of Telgi. The appellant had deliberately not taken action against one licensed stamp vendor Madhav M.D. who was a close associate of Telgi and was actively involved in the organized crime syndicate. He had also failed to initiate legal action in the case of stamps issued by Sanjay Sharma who was also a member of the organized crime syndicate. The appellant was aware of the association of Madhav M.D. and Sanjay Sharma with Telgi and his syndicate and the appellant failed to take action against them despite specific directions from his superiors.

5. The appellant denied his involvement and also took the stand that he was not the person who had to take action and that he had not failed to do anything which was enjoined on him by law. He also contended that in any event, he cannot be found guilty of any organized crime and no ingredient of the offence u/s 3(2) of MCOCA was prima facie made out as against him. He pointed out that he had been roped in by virtue of Section 120B of the Indian Penal Code (for short, 'IPC') and therefore he was entitled to be enlarged on bail. The prayer of the appellant was opposed by submitting that the materials clearly showed the involvement of the appellant in an organized crime and considering the magnitude of the crime and the impact it had on society and it is likely to have on the affairs of men and transactions, it was a fit case where no bail ought to be granted.

6. The Special Court, on a consideration of the relevant materials, came to the conclusion that it was not an appropriate case for the grant of bail. That court was inclined to the prima facie view that the appellant had rendered help and support to the organized crime syndicate and had knowingly facilitated the commission of an organized crime. Thus, the application for bail was rejected.

7. Learned Senior Counsel for the appellant in challenging the order of the High Court submitted that no prima facie case for conviction u/s 3(2) of MCOCA exists and only if Section 3(2) is attracted, the appellant was liable for punishment of not less than five years but which may extend to life. He submitted that even if it is taken that Section 24 of MCOCA is attracted on the basis that as a public servant, the appellant had failed to take action, the punishment was only three years and the appellant having been in custody for more than two years and three months, was entitled to be enlarged on bail. Learned Counsel emphasized the approach to be made in dealing with applications for regular bail u/s 439 of the Code.

8. Learned Senior Counsel on behalf of the CBI submitted that this is a clear case of an organized crime and the appellant was an insider in the conspiracy. Section 3(2) of MCOCA was therefore clearly applicable. Section 3(5) of MCOCA was also attracted. He pointed out that a charge has been proposed by the CBI u/s 3 of the Act and if such a charge is framed, the appellant could not be enlarged on bail without reference to Section 21(4) of the MCOCA. He submitted that the High Court was therefore right in refusing to grant bail to the appellant.

9. It is not for this Court at this stage to go into a detailed discussion of the scope of MCOCA or discuss in detail the materials against the appellant and the arguments for and against on merits. But we have necessarily to keep in mind the magnitude of the alleged crime and the consequences that have flowed from such a crime. As far as the appellant is concerned, at this stage we have only to consider whether he has made out a case for grant of bail. We can neither be carried away by the catchy submission that 'bail and not jail' is the rule, nor can we ignore the principle reflected by that catchphrase. On a consideration of the relevant circumstances obtaining and taking note of the period during which the appellant has been in custody, we are satisfied that it is a fit case for grant of bail to the appellant. Therefore, we, in reversal of the order of the Special Court, direct that Court to enlarge the appellant on bail on his furnishing security to the satisfaction of that Court in a sum of Rs.1 lac with two solvent sureties for the like amount and on his fulfilling the other conditions of Section 438(2) of the Code. We also impose a further condition that he should report before the Investigating Officer between 10.00 AM and 12.00 Noon every third Saturday of the month and surrender his passport, (or file affidavit, if he has none) before the Special Court if it is already not in its custody.

10. The appeal is allowed on the above terms.