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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 22.04.2025+ **BAIL APPLN. 222/2025**

AMIT GULIA

.....Petitioner

Through: Mr. Avi Kalra, Mr. Prateek
Lakra, Mr. Devesh Chauhan
and Ms. Preetika, Advocates

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for the
State with Inspector Sundeep
Yadav, P.S. Special Cell.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J (ORAL)**

1. By way of the present application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 163/2019, registered at Police Station Special Cell, Delhi for the offence punishable under Sections 3/4 of the Maharashtra Control of Organized Crime Act, 1999 [hereafter 'MCOCA'].

2. Briefly stated, the facts of the case, as discernible from the records, are that a proposal under Section 23(1)(a) of the MCOCA was moved against accused Kapil Sangwan @ Nandu, his brother



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Jyoti Prakash @ Babu, and their other associates. As per the proposal, on the evening of 20.12.2015, Sunil @ Doctor, the brother-in-law of Kapil Sangwan @ Nandu, was murdered in the jurisdiction of P.S. Chhawla, and FIR No. 766/2015 was registered under Sections 307/302/34 of IPC and Sections 25/27 of the Arms Act. The accused in that case – Nafe @ Mantri, Manjeet Mehal, Dharmender, Ashok Mitraon, and Pradeep Solanki – are all stated to be members of the Manjeet Mahal gang. The said murder was allegedly committed due to the gang rivalry between the Kapil Sangwan gang and the Manjeet Mahal gang due to financial dealings. In retaliation, during the intervening night of 20/21.12.2015, Kapil Sangwan and his associates had allegedly attacked the house of Nafe @ Mantri and murdered his father Hari Kishan, while also injuring his wife and mother with firearms, in respect of which FIR No. 767/2015 under Sections 302/307/34 of IPC and Sections 25/27 of the Arms Act was registered at P.S. Chhawla. The proposal further stated that continuing this gang rivalry, on the evening of 11.01.2016, Kapil Sangwan and his associates had murdered Vinod (father of Dharmender, an accused in Sunil’s murder) and his son Kamal, and FIR No. 24/2016 under Sections 302/307/34 of IPC was registered on 12.01.2016 at P.S. Chhawla in this regard. Thereafter, on 29.01.2017, Krishan Pradhan (father of gangster Manjeet Mahal) was shot outside his residence in Village Mitraon by four persons. The eyewitnesses had identified the assailants as members of the Kapil Sangwan gang, and FIR No. 21/2017 under Sections 302/34 of IPC and Sections



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25/27 of the Arms Act was registered at P.S. Baba Haridas Nagar. The investigation in the above FIRs revealed that these incidents were outcomes of organized crime activities carried out by a syndicate headed by Kapil Sangwan @ Nandu and his associates. It was also stated that Jyoti Prakash @ Babu (accused no.1), brother of Kapil Sangwan, was involved in various criminal activities, including a murder-cum-riot case, in which he stood convicted and was sentenced to life imprisonment. While Jyoti Prakash was in jail, Kapil Sangwan is alleged to have continued criminal activities under his guidance and support. At the time of the submission of proposal, both were absconding after being released on parole/interim bail respectively. The proposal also recorded that the absconding accused Kapil Sangwan and Jyoti Prakash had threatened a businessman in the P.S. Bindapur area and demanded extortion of Rs. 1 crore, leading to the registration of an FIR. The proposal detailed that Kapil Sangwan is involved in 22 criminal cases and Jyoti Prakash in 12. Other members of the syndicate and their criminal involvements as per the proposal were: Krishan Kumar @ Ankush (8 cases), Anil Sharma @ Podi (7 cases), Vipin Yadav @ Judo (5 cases), Sandeep @ Kale (6 cases), Gulshan Khatti (9 cases), Vikas @ Nakul (12 cases), Amit Gulia (9 cases), Sachin Chikara (9 cases), and Pradeep @ Fauji (10 cases). It was mentioned that the criminal history of these individuals reflected organized criminal conduct involving violence and threats, aimed at pecuniary gain and establishing criminal dominance. Since cognizance had already been taken in most of these



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cases by competent courts, a proposal was moved for registration of a case under Sections 3 and 4 of MCOCA.

3. It was alleged that Kapil Sangwan and Jyoti Prakash, along with 9 associates, were continuously involved in organized criminal activities including murder, robbery, and extortion. The proposal was approved by the Joint Commissioner of Police, on 18.09.2019, leading to registration of the present FIR No. 163/2019, dated 19.09.2019, under Sections 3 and 4 of MCOCA at P.S. Special Cell, Delhi. During investigation, an analysis of the criminal activities of various accused persons was conducted. Certified copies of FIRs and witness statements were recorded. As per the report filed under Section 173 of Cr.P.C., Kapil Sangwan was found involved in 26 criminal cases. Further investigation revealed that Kapil Sangwan had fled India using a fake passport in the name of “Sanam Mahajan” and travelled to Thailand on 22.09.2019, and Interpol Blue Notice proceedings had been initiated for his arrest, and further that the fake passport had been allegedly procured by Jyoti Prakash @ Babu.

4. As regards accused/applicant Amit Gulia (accused no. 3), investigation had revealed his involvement in 16 criminal cases between 2015 and 2020, individually and as part of the organized syndicate. The cases included FIR Nos. 767/2015 and 24/2016 (both of P.S. Chhawla), FIR No. 223/2019 (P.S. Najafgarh), FIR Nos. 399/2019 and 400/2019 (P.S. Dwarka North), and FIR No. 586/2020 (P.S. Chhawla). He was arrested in the present case while in judicial custody at Tihar Jail No. 1. He was taken on police remand and,



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during interrogation, he had made a disclosure statement admitting his involvement in organized crime activities along with Kapil Sangwan, Jyoti Prakash, and others. A confessional statement of Amit Gulia under Section 18 of MCOCA was recorded on 31.08.2020, but the same was retracted before the learned CMM on 01.09.2020.

5. The learned counsel appearing for the applicant argues that the present applicant has been falsely implicated in this case, and there is no evidence on record to show that the applicant is a member of, or connected in any manner with, the alleged organised crime syndicate. It is contended that the object of MCOCA is not to deal with crimes which are committed in routine manner, but those crimes which have 'lethal combination' of money and violence. It is stated that merely because the applicant has been implicated in several cases, the same cannot be a sole ground to implicate him under MCOCA. It is argued that the chargesheet in this case already stands filed, and the applicant continues to be in judicial custody since 21.08.2020. It is argued that a large number of witnesses are to be examined and there is no likelihood of the trial concluding in near future, and that prolonged delay in trial constitutes a violation of the applicant's right to a speedy trial. Therefore, it is prayed that the applicants be granted regular bail.

6. The learned APP for the State, on the other hand, strongly opposes the present bail application and argues that the applicant herein was found involved in about 27 cases, but the trial is ongoing



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in 9 cases at present. It is submitted that the applicant is one of the most active criminals in the Nandu-Jyoti gang and is involved in the organised crime syndicate. It is further submitted that the applicant herein had been declared a proclaimed offender in two other cases. It is also stated that charges have been framed against the applicant and the trial has commenced and 7, out of total 179 witnesses, have been examined. It is argued that the release of the applicant herein will severely hamper the fair course of trial in the present case as well as the other cases in which the applicant is an accused. Insofar as the antecedents of applicant are concerned, it is submitted by the learned APP that during search of applicant's ward in Bhondsi Jail, Haryana, key of one lockup, a long sheet, a cable wire, an iron chisel, pointed weapon like object, a mobile phone battery, two chargers and cut lead had been recovered from him. It is also alleged that the applicant herein and his associates had threatened the search team of dire consequences and court complaints. It is submitted that the applicant is also an accused in the murder case of Sh. Nafe Singh Rathi, a former Member of Legislative Assembly (MLA). It is submitted that there is strong possibility of his escape from India or attack on him by the rival crime syndicate members, if he is granted bail. Therefore, it is prayed that the present bail application be dismissed.

7. This Court has **heard** arguments advanced on behalf of both the parties, and has perused the material available on record.

8. In the case at hand, the applicant herein has been apprehended on the basis of his membership/association with an organised crime



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syndicate. As noted above, the proposal to invoke the provisions of MCOCA was approved by the competent authority after considering the offences allegedly committed by Kapil Sangwan and Jyoti Prakash and their associates.

9. It is noteworthy that the applicant herein has been involved in about 27 criminal cases, between the period 2015 to 2024. Though it was brought to this Court's notice that the applicant has been either discharged or acquitted in about 18 of these cases, he continues to face trial in 9 cases, pertaining to offences such as murder, attempt to murder, unlawful assembly, offences under Arms Act, etc. Further, he was also declared proclaimed offender in two cases.

10. Since the present FIR has been registered under provisions of MCOCA, the twin conditions under Section 21(4) of MCOCA will have to be satisfied by the applicant so as to entitle him to grant of bail. The said twin conditions are: first that the accused is not guilty of the offence, and second, that he is unlikely to commit a similar offence if released on bail. For reference, Section 21(4) of MCOCA is set out below:

“21. Modified application of certain provisions of the Code

(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



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believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

11. The Hon’ble Supreme Court in *Jayshree Kanabar v. State of Maharashtra & Ors.*: 2025 INSC 13, has recently held, in relation to Section 21(4) of MCOCA, that when “there is an embargo put in by a specific provision under a special enactment in the matter of grant of bail in respect of offences allegedly committed thereunder, the power to grant bail should necessarily be subject to satisfaction of the conditions mentioned in such specific provision.”

12. Having carefully examined the material on record, this Court notes that insofar as the role ascribed to the applicant herein is concerned, the investigation has led to the conclusion that he had been associated with the organized crime syndicate in question, which was involved in commission of several criminal cases of murder, robbery, dacoity etc. The applicant is also accused of being involved in the murder of a former MLA of Haryana, which was committed on 25.02.2024, for which he is facing trial. No exceptional circumstances have been shown by the applicant herein to reflect that he has no involvement in the activities of organised crime syndicate. Thus, there exists no reasonable ground, even *prima facie*, to believe that the accused is not guilty of the alleged offence under MCOCA.

13. Further, even despite being confined in jail, the applicant is alleged to have remained involved in criminal activities, as during a search conducted in his ward at Bhondsi Jail, Haryana, recovery was made of a lockup key, iron chisel, pointed weapon-like object, mobile



phone battery, two chargers, cable wire, cut lead, and a long sheet. It is also alleged that the applicant and his associates had threatened the search team with dire consequences. The record also reveals that when the main accused Kapil Sangwan had been released on interim bail, he had absconded and left India on a fake passport. Thus, considering these facts and circumstances, this Court cannot arrive at an opinion that the applicant will not commit any offence if he is granted bail.

14. Consequently, in this Court's view, the applicant has not been able to satisfy the twin conditions laid down in Section 21(4) of MCOCA. This Court also notes that trial of the present case is at a crucial stage, and as per Status Report, 07 witnesses have been examined so far, and 132 witnesses are yet to be examined, including material witnesses.

15. In view of the foregoing discussion, this Court finds no ground to allow the present bail application.

16. Accordingly, the present application is dismissed.

17. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

18. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

APRIL 28, 2025/gs