

2. After hearing both sides I had released the respondent on bail on the terms and conditions as set out therein including reporting to

the Police Station.

3. The only contention raised before me in this application for cancellation of bail is that the applicant was arrested along with other accused on 20th November, 2006. There are in all 17 accused. It is stated that on the relevant date although the office of the Public Prosecutor had sent message to the I.O., to remain present the said message could not be received in time. It is reported that the C.R., was transferred to Crime Branch on 25th October, 2006. However, the bail came to be granted by this Court. The investigation revealed that the accused Ganesh Marne has formed an organized crime syndicate and they have undertaken continuing unlawful activities for pecuniary gains and more than one charge sheet in respect of offences punishable with imprisonment of 3 years or more were filed. After setting out the nature of the offences it is stated that the Deputy Inspector General of Police/Additional Commissioner of Police (Crime) Pune City, Pune, on 30th December, 2006 granted sanction under Section 23 of the MCOC Act to apply the provisions of MCOC Act more particularly set out therein. Under these circumstances the bail deserves to be cancelled. Once, MCOC Act is applied then the respondent-accused can no longer avail of the benefit of the bail granted on 20th December, 2006. His enlargement

on bail is subject to applicability of MCOC Act. Now, once the sanction is granted and the MCOC Act is applicable the stringent conditions under that enactment warrant cancellation of the bail.

4. On the other hand it is contended that this application is not maintainable. It is urged that the principles that apply for grant of bail and cancellation of bail are distinct. The supervening circumstances should be such which would point out misuse of liberty by the accused and unless that is demonstrated merely because a more stringent law is applied to the criminal case in question, does not warrant cancellation of bail.

5. After hearing the parties at some length, I am of the view that though the respondent accused was enlarged on bail that was on the basis that he would be tried by ordinary criminal Court under the Cr.P.C. for the offence punishable under Indian Penal Code. Now, it is undisputed that MCOC Act has been applied and the order of sanction is placed before me.

6. Having perused that order and the relevant provisions of MCOC Act, in the peculiar facts of this case the benefit of the bail granted by this Court will not be available to the respondent accused

any longer. However, the accused can be protected by giving him an opportunity to move the Court to which the special case has been made over (Special Court trying offence punishable under MCOC Act at Pune) for bail afresh and until such application is filed the applicant can have the benefit of the order dated 22nd December, 2006. Hence, the present application is disposed of by the following order:-

(a) Time of 15 days is granted to the respondent to apply for bail in the special criminal case before the Special Court under MCOC Act at Pune and if such an application is filed within 15 days from today the said Court to decide the same afresh on merits in accordance with law. If there is a default committed in filing the application, then needless to state that all consequences in law shall follow. In other words, the bail granted on 22nd December, 2006 would then stand cancelled and the respondent would be liable to surrender to custody.

(b) If the application is filed within the time specified above, then, the respondent shall abide by all orders and directions as may be passed by the learned Judge presiding over the Special Court.

S.C. DHARMADHIKARI, J