

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1035 OF 2015

Bhimanna Govind Birajdar ... Applicant

Vs.

The State of Maharashtra ... Respondent

a/w

ANTICIPATORY BAIL APPLICATION NO.1060 OF 2015

Sabir Lala Nadaf ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.U.R. Mankapure, for both the Applicants
Mr.Arfa Sait, APP, for State in ABA/1035/2015
Ms.R.V. Newton, APP, for Respondent – State in ABA/1060/2015

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: AUGUST 7, 2015

P.C.:

1. The applications are moved for pre-arrest bail as both the applicants/accused are facing charges under sections 363, 364-A, 143 and 149 of the Indian Penal Code in C.R. No.58 of 2015 registered with Jat police station, District Sangli. One Popat Dnyanoba Jadhav, who was working a securityman at one construction site gave the complaint that on 31.3.2015 at around 3pm, when the work was going on, he noticed two cars arrived with nearly 15 persons including one of the accused

Bhimanna Birajdar inside the car. They caught hold of the supervisor Murugeshan. They tied his hands and legs with rope, put him in the car and they were taking him away. At that time, the applicant/accused Birajdar told in Kannada that unless they receive money, they would not leave Murugeshan. It is the case of the prosecution that Murugeshan was thereafter taken away in the car to one hotel and the persons in the car told him that they would kill him and thereafter they kept in the hotel. They gave him some cold drink and locked the room from outside. Then in the morning at 8 am, they took him to Mangalvedha, gave him food and they again took him away in a jeep to go towards Karnataka. At the checkpost, he told them that he wanted to vomit and so he was taken out of the jeep and then he shouted for help. At that time, there was a police constable one Vilas became alert and he came there to help Murugeshan. Thereafter, at that time, the co-accused Sabir Lala Nadaf pointed out a revolver towards the police and other persons and told them not to come nearer otherwise he would fire at them. Then all then ran away. The constable was not having a revolver so he could not chase, however, he chased the driver and he could nab him. Then after recording the statement of Murugeshan, the offence was registered against these applicants and the co-accused.

2. The learned Counsel for the applicant/accused has submitted that no offence u /s 364, 364-A of the Indian Penal Code is committed. Section

363 is bailable. He submitted that the applicants/accused have not committed any offence. He further submitted that the case against these applicants/accused is false and it was a plan of a company from whom an amount of nearly Rs.1 crore is due to the applicants/accused. Hence, by implicating the accused falsely the company wanted to avoid the payment and for this purpose, as per the submissions of the learned Counsel, Murugeshan was used and he was accompanying them willingly.

3. Both the learned Prosecutors have opposed the applications. They submitted that there was threat given that they wanted to kill him and there was a case of ransom and therefore, they ought not to be bailed out. They submitted that as soon as the offence of kidnapping took place, the offence is complete and so they should not be bailed out.

4. Perused the FIR, statement of Murugeshan. It prima facie shows that the offence of kidnapping has taken place. Murugeshan was kidnapped by the applicants/accused as they wanted to recover their money. However, prima facie, it appears that there is no demand of any ransom and he was not taken to murder him. Therefore, the interim pre-arrest bail granted to both the accused earlier is confirmed on the same terms and conditions. However, they shall attend the concerned police station on every Monday and Friday between 4pm to 6pm, till filing of chargesheet. Further, the applicants/accused shall take law in their hands

to recover any money, if there is any recovery. So also, they shall not threaten Murugesan and/or any of his relatives.

5. Anticipatory Bail Applications are disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)