

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.873 OF 2015

Jitendra Vasudeo Walke & Ors. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.A.S. Khandeparkar a/w Mr.Lokesh Zade for the Applicants
Mr.S.S. Pednekar APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JULY 31, 2015**

P.C.:

1. The application is moved for pre-arrest bail as the applicants/accused are apprehending arrest in C.R. No.53 of 2015 registered with the 53 of 2015 registered with Kankavli police station, District Sindhudurg for the offences punishable under sections 143, 363, 365, 342, 504 and 506 of the Indian Penal Code.

2. It is the case of the prosecution that Sagar Raju Mane, was kidnapped on 2.6.2015 in the evening and so the offence was registered on 3.6.2015 in the afternoon by his father. His father i.e., the complainant, Raju Mane has informed that the co-accused were arrested in the offence of house breaking, wherein the son of the complainant gave evidence against them in the Court. However, when they were released, they

started threatening Sagar. His father gave complaint that because of the previous incident, the applicant/accused No.6 and the other co-accused have kidnapped his son Sagar. Thereafter, Sagar was found on the next day. His statement was recorded and thereafter the evidence was registered against the applicants/accused and the co-accused.

3. The learned Counsel for the applicant/accused has submitted that there is no evidence against the applicants/accused. In all, there were 13 accused persons. Seven persons were named in the FIR. Out of 13, four were released on pre-arrest bail. He submitted that the applicants have not committed any offence and there is no evidence against them. He further submitted that in fact, Sagar confessed before the press reporters when the press conference was taken by the applicants/accused on 3.6.2015. He admitted that he had committed the offence of house breaking for which some of the accused were earlier taken in custody. He, therefore, submitted the applicants/accused be released on bail.

4. The learned Prosecutor has opposed the application. He relied on the statements of Sagar and Vishal Palkar recorded under section 164 of the Criminal Procedure Code. He submitted that both the boys have stated before the learned Magistrate that the applicants/accused and the co-accused have committed the offence of kidnapping them. They were also assaulted and they were compelled to say that they have committed

the offence in the press conference, which was organised by the applicants/accused.

5. Perused the FIR, the statements of Sagar and Vishal recorded under section 164 of the Criminal Procedure Code. There are two important facts that Sagar Mane has given evidence against some of the accused persons in the offence of house breaking which was registered against them. Secondly, both Sagar and Vishal are minors. The complainant gave information that his son did not return on the night intervening between 2nd June, 2015 and 3rd June, 2015. At the time of giving the complaint, he had named some of the accused persons. From the statement under section 164 of the Criminal Procedure Code, it appears that the applicants/accused have prima facie, committed an offence under section 365 of the Indian Penal Code, which is non-bailable. Moreover, the applicants/accused have called the press conference and compelled the boys to admit that they had committed the offence of house breaking.

6. Considering this, I am not inclined to protect all the applicants/accused but applicant/accused No.4, whose name is not mentioned in the statement under section 164 of the Criminal Procedure Code and also applicant/accused Nos.2 and 5, though their names were mentioned, since they are women and were not involved from the

beginning in the kidnapping. Accordingly, the Anticipatory Bail Application *qua* the applicant/accused Nos.1, 3, 6 and 7 is rejected.

7. The Anticipatory Bail Application is allowed as regards applicant/accused Nos.2, 4 and 5 on the following conditions:

- i) In the event of arrest, the applicant/accused Nos.2, 4 and 5 namely, Sou.Mitali alias Tripti Jitendra Walke, Shri Vinay Vitthal Belanekar and Sou. Vidya Vinay Belanekar shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/- each, with one or two solvent sureties in the like amount;
- ii) The applicants/accused Nos.2, 4 and 5 shall not tamper with the evidence and shall not pressurise the complainant and especially the two minor boys;
- iii) The applicant/accused Nos.2, 4 and 5 shall not indulge into any kind of offence while on bail;
- iv) The applicant/accused Nos.2, 4 and 5 shall cooperate with the Investigating Officer and attend the concerned police station on every Saturday, between 4 to 5pm, till filing of chargesheet.

(MRS.MRIDULA BHATKAR, J.)