

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2126 OF 2015

Mr. Abdul Khadar Babusab Nadaf : Applicant
Vs.
The State of Maharashtra : Respondent

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Mr. Mohd. Saeed Asgar Moghul for the applicant.
Ms. Veera Shinde Addl. Public Prosecutor for the State.
Mr. V. G. Bhalerao, Police Sub Inspector, Sahapur Police Station,
Ichalkaranji, Dist. Kolhapur (Present).

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : December 14, 2015.

P.C. :

. This is an application for bail, filed by the aforesaid applicant, in Crime No. 110 of 2015 registered at Sahapur Police Station for offences under sections 363, 367, 342, 323 r/w. 34 of the IPC.

2. The case of the prosecution in brief is that :

On 22nd November 2015 the applicant and the other co-accused had abducted the first informant Shafiq with an intention of causing grievous injuries to him. It is further alleged that the applicant had assaulted and wrongfully confined said Shafiq. Based on the said allegations made in the FIR, the aforesaid crime came to be registered against the applicant and other co-accused.

3. The application for Bail filed by the aforesaid applicant before the Sessions Court, Ichalkaranji, came to be dismissed by an order dated 17th October 2015. Hence the applicant has preferred this application under Section 439 of the Cr.P.C. Mr. Moghul, learned Counsel for the applicant has submitted that the allegations leveled in the FIR do not constitute an offence under section 367 of the IPC. He has further submitted that the other offences are bailable and as such the applicant is entitled for Bail

4. Ms. Veera Shinde, the learned Addl. Public Prosecutor submits that the allegations leveled against the applicant prima facie constitute an offence under section 367 of the IPC. She has submitted that the offence is of serious nature and as such the applicant is not entitled for Bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The records prima facie reveal that the complainant used to repair old bullet motorcycles. The applicant was known to him and at the request of the applicant herein the complainant as a middle man and sold to the applicant a bullet motorcycle of 1974 model allegedly belonging to

one Suresh Chavan. It is alleged that neither the vehicle was transferred in the name of the complainant nor the possession of the vehicle was given to him. The record prima facie reveals that the applicant and the co-accused Makdoom had confronted the complainant and told him to handover the said vehicle. The complainant had alleged that the applicant herein and Makdoom had assaulted him by means of an iron rod and on 22nd September 2015 they had taken him to Vijapur, where the applicant told him to procure NOC or else to pay Rs. 1,00,000/- to him. It is further alleged that the said Makdoom and the applicant herein had obtained his writing of the complainant on stamp paper and thereafter dropped him at Vijapur, where his wife is residing.

6. The allegations made in the FIR, in my considered view, do not prima facie indicate that the complainant was abducted with an intention of causing grievous hurt. Hence, the averments in the FIR do not prima facie constitute offence under section 367 of the IPC. The other offences are bailable. The applicant is in custody since 30th September 2015. The investigation is already completed and his presence is not required in custody.

7. Under these circumstances, the application is allowed.

(a) The applicant is ordered to be released in Crime No. 110 of

2015 registered at Sahapur Police Station, the Applicants shall be released on bail on furnishing Bail Bond of Rs. 15,000/- each with two local sureties in the like amount to the satisfaction of JMFC, Ichalkaranji.

- (b) The applicant shall report to the Investigating Officer for 4 days from 10.00 a.m to 1.00 p.m for interrogation and investigation .
- (c) The applicant shall furnish permanent as well as temporary address, if any, to the Investigating Officer. The Investigating Officer shall verify the said address before the applicant is released on bail.
- (d) The applicant shall not leave Dist. Sindhudurg without prior permission of the JMFC Malvan.

(ANUJA PRABHUDESSAI, J.)