

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1843 OF 2015

Ashwin Kumar More

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Ishwariprasad Bagaria for the Applicant.

Ms R.V. Newton, APP for the Respondent -State.

Mr. Sachin D. Kadam for the Intervener in APPP/1037/2015.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 16th DECEMBER, 2015.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicant in apprehension of his arrest in Crime No.95 of 2015 registered with Dapoli Police Station, Ratnagiri, for the offences punishable under section 364 r/w. 34 of the IPC.

2. The case of the prosecution in brief is that on 11.11.2015 at about 11.30 hours two unknown persons had abducted the complainant Rupesh Pawar. Said two persons had taken him in an Inova Car and proceeded towards Khed. On the way at Tin batti Naka the police had intercepted the said vehicle and that he had made signal

to the said police and thereafter the police had searched the vehicle and recovered some deadly weapons such as chopper, sickle and other sharp weapons from the said vehicle. The police, therefore, apprehended the driver and the other persons responsible for abducting the complainant. Pursuant to the FIR lodged by the complainant, aforesaid crime came to be registered.

3. The Applicant in apprehension of his arrest in the present crime, filed an application for bail before the Sessions Court, Khed, which came to be rejected by order dated 1.12.2015. The Applicant has therefore, filed this application for anticipatory bail invoking the powers of this Court under section 438 of the Criminal Procedure Code.

4. Mr. Bagaria, the learned counsel for the Applicant has submitted that there is no material on record to prove the involvement of the Applicant in commission of the said crime. He has submitted that the dispute between the Applicant and the complainant was of the year 2013 and that there is nothing on record to indicate that the relations between the Applicant and the complainant continued to be strained till 2015. He has submitted that the Applicant is not involved

in commission of the said crime and that he has been falsely implicated.

5. The learned APP has submitted that the FIR prima facie shows that the relationship between the Applicant and the complainant was strained and the complainant had suspected that the Applicant is involved in committing the said crime. She has further submitted that the investigation reveals that the Applicant had paid money to one of the co-accused for abducting the complainant and part of the amount was recovered at the instance of the co-accused from the farm house of the Applicant. She has further stated that call details prima facie show that the Applicant was in constant touch with the accused No.7. All these circumstances prove the involvement of the Applicant in the said crime.

6. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. The FIR prima facie reveals that in the month of September, 2015 some unknown persons had visited his office and had told him to supply laterite stone at the site of Reliance Petrol Pump, Bharna Naka of Sanjay Gujar. Said persons had refused

to give him Mobile number. On the next date he had received a phone call asking him to come to the said site. He had sent his friend to verify and his friend told him that there was no such site of Sanjay Gujar at the location stated by the said unknown persons.

7. The FIR further reveals that on 11.11.2015 at about 11.30 a.m. when the complainant was near Wakavli, one Inova Car No.MH-05-BL/5578 came across his vehicle and two persons got down from the said vehicle and told him that they are from the Crime Branch, Pune, and asked him to accompany him and when he questioned them, they forcibly held him, gagged him and snatched his mobile phone and switched it off and made him to sit in the Inova Car. There were total six persons in the Car. He has further said that the said Inova Car proceeded towards Khed. He has stated that the Khed Police had intercepted the said Inova Car at Tin batti Naka and he had signalled to the police after which the police had caught the said six persons and seized sickles and other deadly weapons from the said car. The statement of one Sandesh Jadhav also prima facie reveals that the Applicant was abducted by some persons in a Inova Khar.

8. The complainant in his FIR has stated that about two years

prior to the said incident, he and the Applicant herein were doing business of extracting laterite stones. Subsequently the complainant started his independent business and as a result, the business of the Applicant herein had gone in loss. He has stated the Applicant had held a grudge against him. The complainant had stated that the Applicant had engaged the said persons to abduct him in view of the said business rivalry.

9. The statement of one Mangesh also prima facie reveals that the Applicant herein had told him that the complainant had cheated him and that he had sustained loss in the business because of the complainant. This witness has further stated that the Applicant herein had threatened to cause death of the complainant.

10. The material on record further reveals that one of the accused persons involved in abducting the complainant was arrested. The investigation reveals that he was paid Rs.1.5 lakhs for abducting the complainant. Out of which, amount of Rs.97,300/- was recovered from the farm house of the Applicant herein at the instance of the said co-accused. The prosecution has also placed on record call data records (CDR). A perusal of which indicates that immediately prior to the incident the Applicant herein was in constant touch with the co-

accused No.7, who was involved in abducting the complainant and was caught by the police on the date of the incident.

11. The aforesaid material prima facie proves the involvement of the Applicant in the aforesaid crime. The offence is of a serious nature and needs to be investigated thoroughly. Considering the nature of the allegations levelled and the manner in which the complainant was abducted, in my considered view the Applicant is not entitled for anticipatory bail.

12. Under the circumstances, and in view of discussion supra, the application for anticipatory bail is dismissed.

13. Needless to state that these are the prima facie observations only for the purpose of deciding the application for anticipatory bail and not expressed on the merits.

(ANUJA PRABHUDESSAI, J.)