

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.228 OF 2016

Aslam s/o Akbarkhan Pathan,
Age 30 years, Occu. Business,
R/o Sai road, Bhakti Nagar,
Latur, Taluka and Dist. Latur

..Applicant

Versus

The State of Maharashtra,
through M.I.D.C. Police Station,
Latur, Taluka and District Latur

..Respondent

Mr T.M. Venjane, Advocate for applicant
Mr S.J. Salgare, A.P.P. for respondent

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CRIMINAL APPLICATION NO.530 OF 2016

Umashankar s/o Somnath Swami,
Age 27 years, Occu. Labour,
R/o Jawalgaon, Taluka Ambajogai,
District Beed

..Applicant

Versus

The State of Maharashtra,
Through Police Inspector,
M.I.D.C. Police Station, Latur,
Taluka and District Latur

..Respondent

Mr N.R. Thorat, Advocate for applicant
Mr S.J. Salgare, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 11th February 2016

PER COURT

Heard.

2. The applicants are seeking regular bail in Crime No.172/2015, registered at M.I.D.C. Police Station, Latur, District Latur, for the offences punishable under Sections 364-A and 120-B read with Sec.34 of Indian Penal Code.

3. The prosecution case against the applicants is that the applicants, with a common object have kidnapped a minor - Yomil with an intention to demand the ransom. Both the applicants were arrested on the spot read-handed.

4. While trying to make out the case for grant of bail, learned Counsel for the applicants submits that the investigation in the matter is complete and charge-sheet is already filed. According to him, the provision of Section 364-A of Indian Penal Code is not attracted against the applicants and relied upon the judgment of Division Bench of this Court in the matter of **Mr. Sachin Krishna Mungurdekar Vs. The State of Maharashtra**, reported in **2014 ALL MR (Cri) 1204** and **Raja Hiralal Yadav Vs. The State of Maharashtra**, reported in **2014 ALL MR (Cri) 2040**, so as to submit that the ingredients of Section 364-A are not satisfied. He would urge that there was neither any demand nor threat of death or causing any injury to the victim. He would then urge that there are no criminal antecedents and the applicants are behind the bar for more than seven months.

5. Learned Additional Public Prosecutor opposed the application on the ground that though the charge-sheet in the matter is filed, however, it is open for the learned Sessions Court to add Section in the Indian Penal Code under which the offence in question is punishable. He would then urge that the applicants were caught read-handed and the victim has suffered abrasion.

6. Perused the investigation papers/charge-sheet. It is noted that the applicants though were caught read-handed, are behind the bar

for more than seven months. Apart from above, there are no criminal antecedents.

7. In my opinion, the application of provision of Section 364-A of Indian Penal Code is itself under doubt. In that view of the matter, applicants deserve to be released on bail.

8. As such, Criminal Application stands allowed. The applicants be released on bail in Crime No.172/2015, registered at M.I.D.C. Police Station, Latur, District Latur for the offences punishable under Sections 364-A and 120-B read with Sec.34 of Indian Penal Code, upon furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount, by each of them.

9. The applicants shall not tamper with the evidence.

10. Both the applicants undertake to remain away from the M.I.D.C. Police Station, Latur till conclusion of trial.

(N.W. SAMBRE, J.)

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