

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5771 OF 2016

Shrikant S/o Mallikarjun Swami
Age : 20 years, Occu.: Labour,
R/o. Pangaon,
Tal. Renapur, Dist. Latur .. Applicant

Vs.

The State of Maharashtra
Through Police Inspector,
Police Station, Nilanga,
Tal. Nilanga, Dist. Latur .. Respondent

Mr. K.T. Jamdar, Advocate for the applicant
Mr. V.S. Badakh, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.
DATE : 05/12/2016

ORDER :

Heard.

2. The applicant, who has been arrested pursuant to his alleged involvement in Crime no.98 of 2016 registered at Nilanga Police Station, Dist. Latur for the offences punishable under Section 307, 353, 333, 120-B, 364-A, 392, 427, 279, 337 of the Indian Penal Code and under Section 3, 7, 25 of the Indian Arms Act

and under Section 236/177, 3(1)/181 of the Motor Vehicles Act, seeks his release on bail.

3. As per the FIR, informant has reported that on 14/5/2016 when investigation with regard to offence under Section 366 of the Indian Penal Code was in progress, the mobile location of the accused and the victim were traced at Latur district. It was learnt that the brother of the victim had received a phone call, directing him to come to Solapur with an amount of Rs.30,00,000/-. On the next day, said brother was called at Umerga with aforesaid amount. Accordingly, a trap was laid and at 17:30 hours, a white Scorpio jeep stopped on the road and the victim's brother was called there. At that point of time, the police parties blocked the said car, after which the white jeep was started and an attempt was made to flee from the spot. Life of the Police officers present there was put to threat by bringing the said jeep on them. Said jeep thereafter proceeded further and dashed on a mini bus, injuring the occupants therein. Thereafter, again the said jeep was surrounded and the victim was brought outside. Six accused including the present applicant

were taken in custody. Air pistol was found from the present applicant. On that basis, he was put under arrest.

4. It is submitted by learned counsel for the applicant that the investigation in the aforesaid crime has been completed. Air gun has been seized from the custody of present applicant and nothing further remains to be seized. It is submitted that use of air-gun is permissible and the same does not require any license. It is submitted that possession of air-gun would not attract any offence under the Arms Act and reference in that regard was made to orders passed by the Delhi High Court and proceedings in that regard pending before the Hon'ble Supreme Court to submit that no offence was committed by possessing the air-gun. It is then submitted that the applicant was merely present in the jeep and he was not driving the same. Therefore, offence under Section 307 of the Indian Penal Code was also not attracted, insofar as the present applicant is concerned. It is therefore submitted that the applicant deserves to be enlarged on bail.

5. The application is opposed by the learned Additional Public Prosecutor by relying upon the investigation papers and the chargesheet. It is submitted that the applicant was a member of the group of persons, who had kidnapped the victim – Sohamlal and from custody of said group, the victim was rescued. Possession of the weapon is proved due to recovery of the same from the applicant. It is therefore submitted that considering the material available against the applicant, he does not deserve to be so released on bail.

6. I have perused the FIR as well as the chargesheet. Statements of witnesses recorded indicate presence of applicant in the Scorpio jeep, from where the victim – Sohamlal was rescued. This vehicle is alleged to have been driven in a manner so as to put in danger the life of the Police officers, who were investigating the crime. Air-gun has been seized from the present applicant. At this stage, it is not necessary to record any finding as to the permissibility of possession of the air-gun. Considering the background in which the victim – Sohamlal was kidnapped

and demand of Rs.30,00,000/- was made from his brother, coupled with the fact that the present applicant was a member of said gang, who were intercepted alongwith the victim, I do not find a case made out, to release the applicant on bail at this stage. Involvement of the applicant in the aforesaid offence is *prima facie* evident from his arrest on the spot. The victim is shown to have suffered grievous injury as per the injury certificate issued by the Sub-District Hospital, Nilanga, District - Latur. Considering the aforesaid aspects of the matter, I am not inclined to consider the present application favourably.

7. By clarifying that the observations made in this order are only for deciding the bail application, the same stands dismissed.

Sd/-

[A.S. CHANDURKAR]
JUDGE

arp/