

ingale

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 410 OF 2016

Ashwinkumar Atmaram More .. Applicant

Vs.

The State of Maharashtra .. Respondent

Mr.A.H.H.Ponda i/b Ms.Latika Narvekar, for the Applicant.
Mr.Samir Suryawanshi i/b Mr.Sachin Kadam, for Complainant.
Mrs.Veera Shinde, APP for State.

CORAM : REVATI MOHITE DERE, J.
DATED : 18th MARCH, 2016

P.C.

. Heard learned Counsel for the applicant and learned APP

2. By this Application, the applicant seeks his enlargement on bail in connection with C.R.No.95 of 2015 registered with the Dapoli Police Station, District- Ratnagiri, for the alleged offences punishable under Section 364 r/w. 34 of the Indian Penal Code.

3. The incident in question has taken place on 11/11/2015, at 11.30 a.m., at Unhawara phata, when the complainant was returning back from Dapoli. It is alleged that one Innova car stopped in front of the complainant's jeep and two persons stepped down from the said car and asked the complainant

to accompany them. The said persons are alleged to have stated to the complainant, that they were from the Pune Crime Branch. It is alleged that the complainant was forcibly dragged to the said Innova car and his mobile phone was taken by them. It is alleged that 4 more persons were present in the car. It is further alleged that at Tin Batti Naka, police stopped the said car, and 6 persons who kidnapped the complainant came to be arrested. Chopper and sickle were found in the car.

4. Learned Counsel for the applicant submitted that the complainant and the applicant were doing partnership business and that although initially, there was some dispute between them, the same was later resolved. He submitted that there are 2 statements of witnesses, which show that there was a business rivalry between the complainant and the applicant; and 4 statements which are to the contrary i.e. they show that the business rivalry had ended. He further submitted that although the CDR record shows that the applicant was in touch with accused No. 7 – Adil Shaikh, that cannot be considered to be incriminating, as the applicant was doing business with the said Adil. As far as recovery of an amount of Rs.97,300/- is concerned, he submits that the same has no connection with the alleged offences.

5. The complainant is present in the Court. His advocate has tendered an affidavit and the same is taken on record. It is

stated in the said affidavit, that the matter is amicably settled between them, and that he has no objection if the applicant is enlarged on bail.

6. Perused the papers. It appears that all the 6 co-accused who were apprehended on the spot, have been enlarged on bail. Admittedly, the applicant was not present on the spot. Considering the material as against the applicant; the affidavit of the complainant; and the fact, that charge-sheet is filed, the applicant is enlarged on bail, on the following terms and conditions :-

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;
- (ii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)