

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1023 OF 2016

Amol Dilip Sakate

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Anand S. Patil Advocate for Applicant.

Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 20, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested in crime no. 209 of 2015 registered at Kolhapur Police Station for offence punishable under section s 387, 362, 364 (A), 201, 120 (B), 511, 507 r/w 34 of the Indian Penal Code. Applicant is arrested on 04/10/2015. Investigation is completed and charge-sheet is filed on 01/01/2016.

2) It is the case of the prosecution that on 18/09/2015, one Sanjay Mane lodged a report at the police station alleging therein that on 11/09/2015, his brother had called him to his house and told him that his son i.e. son of the first informant namely Digvijay was returning from tuitions on motorcycle.

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One boy had stopped him on the way and informed him that his motorcycle has failed since the petrol is over. While Digvijay was talking to the said boy, the Indica Car crossed them. One unknown person had alighted from the car. There was a scuffle between the said unknown boy and Digvijay. Upon seeing the scuffle, the passersby had stopped. That when they were in the police station for giving report in respect of the said incident, they received a phone call from an unknown number on which a threat was extended and a demand of Rs. 30 Lacs was made. The complainant had received threatening calls intermittently.

3) It is pertinent to note that there are 11 accused in the present case. Some of the accused were arrested on 30/09/2015. While in remand, the accused had disclosed that the conspiracy had been hatched at the behest of the present applicant wherein it was decided to kidnap the son of the first informant and demand ransom.

4) The learned counsel for the Applicant submits that there is no cogent evidence against the present Applicant. Test identification parade has not been conducted, as far as the present Applicant is concerned.

5) The learned APP submits that test identification parade, as far as other

accused is concerned, was conducted and that the other accused have been identified by the victim. The learned APP further submits that there are several offences registered against the present Applicant within the jurisdiction of Kolhapur Police Station. In fact, Applicant is resident of village Asurle, Tal. Panhala, however, he has misled the investigating agency by showing his address as village Savarde, Tal. Hatkanangale, Dist. Kolhapur. It is also submitted that there are 4 offences registered against the present applicant at Agripada Police Station, Mumbai. That the co-accused have disclosed to the investigating agency that they had met the present Applicant at Jaysingpur and that it was at his instance the conspiracy has been hatched for committing an offence under Section 364 (A) of the Indian Penal Code.

6) The learned counsel for the Applicant submits that in fact, victim was not kidnapped, however, only an attempt to kidnap was made. It is also submitted that in 5 cases, the Applicant has been acquitted and 3 cases are pending against him.

7) This, by itself would show that the Applicant has criminal antecedents. Once Applicant is enlarged on bail, he would indulge into similar offences and therefore, Applicant does not deserve to be enlarged on bail in the present

case.

8) The learned counsel for the Applicant submits that it is incumbent upon the prosecution to adduce sufficient evidence in the present case against the Applicant and only because he has criminal antecedents, he cannot be denied bail.

9) At this stage of bail, it is expected that the applicant would keep the faith of the Court that his liberty has been protected, irrespective of the safety, security and liberty of the society. In every case, liberty of individual cannot assume any predominance over the interest of society and law and order situation.

10) It is in these circumstances that the application filed by the present Applicant, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)