

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

CRIMINAL BAIL APPLICATION NO. 1647 OF 2016

Santosh Prakash Pawar. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. D.D. Rananaware, advocate for Applicant.

Mr. R.M. Pethe, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 16, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested in C.R. No. 2 of 2016 registered at Lonand Police Station, Satara for the offence punishable under Section 363, 395 of the Indian Penal Code.

3 The case of the prosecution is that in the intervening night of 31/12/2015 and 1/1/2016, the applicant herein alongwith one Ganesh Gaikwad and Lakhan had assaulted the complainant Amol Raskar by stick, leather belt etc. The principal allegation seems to be for the offence punishable under Section 363 read with Section 34 of the Indian Penal Code. It is alleged that the complainant was called upon by Ganesh Gaikwad and was taken in his Scorpio Jeep bearing No. 11 JH 3940 to Vathar Phata. It is alleged that Ganesh Gaikwad and co-accused alongwith the present applicant had snatched the gold chain from the complainant and also a cash of Rs. 1,900/-.

4 It is pertinent to note that the principal accused Ganesh Gaikwad has been protected by this Court by way of pre-arrest bail in Criminal Anticipatory Bail Application No. 67 of 2016 vide order dated 15/1/2016. It is was observed by this Hon'ble Court on the basis of the papers of investigation that there was initially an altercation between Vikas Bhujbal, the driver to the complainant and

the applicant- Ganesh Gaikwad. It is observed that Ganesh Gaikwad and the complainant were known to each other and the incident had occurred due to previous dispute between the driver of the complainant and Ganesh Gaikwad.

5 The learned Counsel for the applicant submits that by virtue of doctrine of parity, the applicant also deserves to be enlarged on bail. It prima facie does not appear to be a case of abduction or an offence under Section 363 of the Indian Penal Code as name of the applicant does not appear in the first information report, as he was shown to be unknown person, associate of Ganesh Gaikwad and Lakhan Nanaware.

6 Perused the papers of investigation. It appears from the injury certificate that the complainant Amol Raskar had sustained simple injuries in the nature of swelling, bruises etc. The applicant herein is arrested on 22/6/2016. In view of the fact that the co-accused have

been granted pre-arrest bail, the applicant deserves to be enlarged on bail.

7 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same while deciding application for discharge or quashing of FIR or at the time of trial.

8 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or two sureties in the like amount.
- (iii) The applicant shall report to the concerned police station as when called by the investigating officer and cooperate with the investigating agency to the best of his capacity.
- (iv) The applicant shall not tamper with the evidence.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)