

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

CRIMINAL APPLICATION NO. 2801 OF 2017

Sunil Vinayak Bari **... Applicant**
Age 37 years, Occu: Business,
R/o Balaji Pura, Zami Chowk,
Amalner, Dist. Jalgaon

VERSUS

The State of Maharashtra, **... Respondent**
Through Amalner Police Station,
District Jalgaon.

Mr. Joydeep Chatterji, Advocate for the applicant
Mr. S. B. Joshi, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 6th July, 2017

ORDER:

1. Heard Mr. Chatterji, learned counsel for the applicant and Mr. Joshi, learned APP for the State.
2. This application is filed under section 439 of the Criminal Procedure Code for bail in connection with Crime No.04/2017, registered with Amalner Police Station Dist. Jalgaon for the offences punishable under Sections 363, 364 (A), 385, 387, 323, 506, 120(1) (B) read with section 34 of the Indian Penal Code.
3. The informant Dr. Nikhil Ramesh Bahugune, father of victim, lodged complaint to the police

station on 04.01.2017 alleging that applicant and other accused persons had kidnapped his son Parth Bahugune, aged 12 years from Global High School by forcibly putting him in Car No. GJ06 K6191. Thereafter the applicant and others had demanded Rs.50 Lakhs as ransom from the informant and threatened that if he failed to pay the amount, they would kill the child. The applicant and others accused persons detained the child Parth from 19.30 hours of 03.01.2017 till 1.00 a.m. of 04.01.2017. Thereafter they abandoned the son of the informant at square of village Amaler and fled away. Thereafter, son of the informant was brought to the house by the informant at Amalner and then the FIR was lodged.

4. Mr. Chatterji, the learned counsel appearing for the applicant, by referring to the supplementary statement of the informant, argued that before the Test Identification parade, the informant had been to the police station and seen the accused persons who were in police custody. Subsequently, the T.I. was held on 13.02.2017 and therefore, there is every possibility that the informant must have narrated the description of the accused persons to the victim. As against this, the learned APP states that the present applicant was

identified by victim Parth during the T.I. parade held on 13.02.2017. There was no reason for the victim to falsely identify the present applicant or there is no circumstance to indicate that identification of the present applicant is by mistaken identity.

5. From the panchanama of T. I. Parade, it appears that clothes of the accused persons were changed and thereafter they were made to stand for the T. I. parade. Therefore, by any stretch of imagination, I do not think that informant was in position to narrate the description of each and every accused person and even if it is presumed that the informant has narrated the description of each and every accused person, then also it would be difficult for a person to identify after change of the clothes. Therefore, prima facie, I do not think that the informant narrated the description of the accused persons and on that basis the victim identified the accused persons, particularly the present applicant.

6. Learned APP further submits that tower location of the mobile of the accused persons is identified. Further more, the conversion of mobile between the co-accused Bhatu Hiranman and informant is tallied. In

the circumstance, at this stage, I do not think that there was any reason for the victim to falsely identify the accused persons/applicant.

7. Looking to the rival submissions of both the sides, I am of the opinion that the present applicant is identified in the T.I. Parade and there was no reason for the victim to falsely identify the applicant as a person involved in the alleged crime. In the circumstance, considering the nature of accusation against the present applicant, the applicant is not entitled for bail. Hence the Criminal application is rejected.

8. The aforesaid observations are prima facie in nature for disposing of the application for bail and it would have no bearing at the time of trial.

(K. L. WADANE, J.)

JPC