

Vidya Amin.

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

**CRIMINAL APPLICATION NO. 477 OF 2018
IN
CRIMINAL APPEAL NO. 1283 OF 2013**

Abhijeet Babar ... Applicant
vs.
The State of Maharashtra ... Respondent

**WITH
CRIMINAL APPLICATION NO. 311 OF 2018
IN
CRIMINAL APPEAL NO. 1262 OF 2013**

Vilas Dagdu Shinde ... Applicant
vs.
The State of Maharashtra ... Respondent

Ms. Apeksha Vora, Advocate for the applicant in APPA/477/2018.
Mr. Aniket Vagal, Advocate for the applicant in APPA/311/2018.
Mr. J.P. Yagnik, APP for the respondent/State.

**CORAM: Mr.S.S. SHINDE &
Mrs.MRIDULA BHATKAR, JJ..
DATED: AUGUST 31, 2018**

P.C. :

1. Both the applicants/accused are convicted under section 364 of Indian Penal Code and under section 3(1)(ii) and 3(4) of Maharashtra Control of Organized Crime Act, 1999 and are sentenced to undergo imprisonment for life and also fine in M.C.O.C. Special Case No. 20 of 2011 by the judgment and order dated 30th October, 2013 passed by Special Judge, Mumbai.

2. The incident of abducting complainant Satish Nayak and demanding ransom of Rs.5,00,000/- took place within the jurisdiction of Sion Police Station on 3rd September, 2011. The amount of Rs.5,00,000/- was paid accordingly and thereafter the complainant was relieved from the custody of the accused persons. As per the case of the prosecution, the offence is committed by the Organized Crime Syndicate of one Ganesh Shinde alias Ganya Shinde and other accused, who planned to abduct the complainant. The complainant runs a business of travel agency in Mumbai.

3. It is the case of the prosecution that the applicants/accused, being the member of the said syndicate, joined Ganesh on the way when the complainant was taken to a secluded spot. The complainant was assaulted by applicant Abhijeet Babar, accused No.3. The demand of Rs.5,00,000/- was made and the applicant-accused Vilas Shinde pursuant to the directions given by Ganesh Shinde, as a part of conspiracy, went to the office of the complainant and demanded the money. He collected ransom amount of Rs.5 lakhs from the complainant's office. Thereafter the complainant was relieved on the same day

who gave complaint to the police station. Applicant-accused Abhijeet was arrested on 14th September, 2011 and applicant/-accused Vilas Shinde was arrested on 13th September, 2011. Since then both the accused are in jail.

4. The learned counsel Ms. Apeksha for the applicant-accused in Criminal Application no. 477 of 2018 has submitted that there is no evidence against the applicant-accused to hold him guilty for the offences of kidnapping and he was not the member of the said gang. She submitted that the complainant did not know the applicant-accused, so the case is based on the evidence of identification by the complainant and PW-11, driver of the complainant. She submitted that PW-8-Deepak Narayan Jadhav, did not conduct Test Identification Parade as per the rules laid down by the High Court manual. On the contrary, he gave admission that he was not aware of the rules of identification laid down in the High Court manual. She submitted that an amount of Rs.7,500/- though was recovered from the applicant/accused, the police could not prove any recovery panchnama through panch. There is no recovery of any weapon at the instance of the applicant/accused. She further submitted that the applicant-

accused does not have any criminal record. The applicant-accused was prosecuted under one offence, however, now he is acquitted. She submitted that he was never a member of Crime Syndicate of Ganesh. She prays that the applicant-accused be released on bail.

5. The learned counsel Mr. Vagal for applicant-accused no. 5 has submitted that the applicant-accused no. 5 was never a member of this gang. He was not aware of abduction and demand of Rs.5,00,000/-. He was not asked to go and collect. He went because his nephew could not go and therefore, he is falsely implicated in the present case. He further submitted that there is no evidence against the applicant-accused. The learned counsel submitted that considering the period of nearly 7 years spent by him in the prison, the applicant is to be released on bail.

6. Learned APP, while opposing these Bail Applications, has argued that the applicants/accused have played a specific roles directly in the commission of offence of abducting and demand of ransom money. He submitted that the offence of abduction, demand of money, receiving money, assault form one offence and

cannot be segregated, though committed in parts. He relied on the evidence of complainant PW-12 Satish Nayak, who is victim, and has deposed that he was forcibly taken out of his office at the point of chopper. He has identified accused no. 3 in the Test Identification Parade. He relied on the evidence of PW-11, driver of PW-12, who also supported the evidence of PW-12 on the point of identification and role played by accused no. 3. Learned APP further pointed out that accused no. 5 himself went to the office and demanded the money. On this point, he relied on the evidence of PW-4 and PW-5, who have stated that money of Rs.5,00,000/- was collected by accused no. 5 Vilas Shinde. Learned APP has submitted that complaint was lodged at 8 p.m. on the same day when the complainant came out. He further submitted that the applicants/accused thus have direct association with the Organized Crime Syndicate led by Ganesh Shinde. Thus, there is sufficient evidence to convict the accused.

7. Perused the evidence and the documents placed before us. Considered the submissions made by the learned counsel of both the parties. We take into account the submissions of learned APP in respect of evidence against the applicants/accused which

is unfolded through complainant PW-12 and also PW-11, PW-4 and PW-5. It shows participation of the applicants accused in the offence. At this stage, we also consider that the applicants/accused are convicted under MCOC Act and hence we are not inclined to grant bail. Hence, the Applications for bail are rejected.

(MRIDULA BHATKAR, J.)

(S.S. SHINDE, J.)

Vidya
Suresh
Amin

Digitally signed
by Vidya
Suresh Amin
Date:
2018.09.06
11:04:49 +0530