

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.752 OF 2017**

Sagar Dagdu Kamble Applicant
Vs.
The State of Maharashtra Respondent

Mr. Pandit Kasar for the Applicant.
Mr. S.R. Agarkar, APP for the State.
Mr. Sandip S. Gosavi PSI, Saswad Police Station, Pune.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 18th June, 2018

P.C.:

1 Heard the learned counsel for the applicant and the
learned APP

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is charge-sheeted in Crime No.119 of 2015 registered at Saswad Police Station for the offences punishable under Sections 364(a), 365, 385, 395, 177 of Indian Penal Code and Sections 3(1)(ii), 3(2)(4) of Maharashtra Control of Organised Crimes Act.

3 It is the case of the prosecution that on 4th May 2015 one Meera Pokale lodged a report at Saswad Police Station alleging therein that her son-in-law Amar Tanwade had received a phone call from one Amol Yeole, who was insisting upon him to convey a message to his mother-in-law i.e. the first informant that she should get her daughter married to him and thereafter she should transfer 3 acres of land in his name. He had threatened Amar Tanwade with dire consequences. He had also informed him that upon failure to oblige, he would abduct Sachin Kamathe who happens to be the nephew of the first informant. On 4th May 2015, Amol Yeole has taken action since the first informant was not willing to oblige and had abducted Sachin, nephew of the first informant from Dhayri. The first informant was conveyed about the same. She immediately rushed to the Police Station and lodged a report. They found two vehicles near Jejuri Naka where Sachin was found alongwith other persons. The police had accosted Pravin Shelar and co-accused from the spot. They were subsequently arrested. The associates of Amol Yeole were not named in the F.I.R.. It appears that while in remand,

arrested accused have disclosed names of the associates. The first informant was informed about the names of the co-accused.

4 Learned counsel for the applicant submits that the applicant herein has not been charge-sheeted till today in any offences alongwith Pappu Utekar, or with Amol Yeole or with any other co-accused. The same is fairly admitted by the learned APP in the affidavit and upon instructions from the investigating officer. Learned counsel for the applicant submits that the applicant has been in custody since 4th May 2015. It is also submitted that the co-accused Shekhar Appa Ukrande, Ramdas Wanjale, Amit Kadam and Pravin Shelar have been enlarged on bail by this court. Pravin Shelar was one of the accused, who was according to witness Sachin Kamathe present at the scene of offence on 4th May 2015, however, he has been enlarged on bail by an order dated 8th February 2017. Learned counsel for the applicant submits that by virtue of doctrine of parity, the applicant would also be entitled to the same relief.

5 While granting bail to Ramdas Wanjole and Amit Kadam, this Court had considered the judgment of the Hon'ble Supreme Court in the case of State of Maharashtra Vs. Vishwanath Maranna Shetty and had observed that the applicants had no criminal antecedents. The same criteria can be applied in the present case.

6 Learned APP has submitted that the witness Ramesh Gadhve had disclosed to the Police on 1st September 2015 that the present applicant had left his Skoda Car in the garage of Ramesh for repairs. The said car was taken away by one person called Chandrakant Nikalaje. The garage owner had not disclosed about the same to the present applicant. That on 3rd May 2015, the present applicant had been to the garage and had asked for return of his own Skoda car. Since, it was not available, in lieu of the said car, the garage owner had given an Indica car bearing registration No. UA-07 Q-2833. It is submitted that on 4th May 2015, Amol Yeole had attempted to abduct Sachin. That at the relevant time, Amol Yeole was accompanied by his friends. That the present applicant was one of them. The Indica car which was given to the present applicant by

Ramesh was found on the spot when Sachin was apprehended. It is submitted that the applicant is charged with the offence punishable under Section 364 (a) read with 34 of the Indian Penal Code, which is punishable upto life and hence the applicant does not deserve to be enlarged on bail. The facts of the present case would indicate that Amol Yeole had his personal interest in as much as he wanted to marry the daughter of Meera Pokale and he also wanted Meera to part with agricultural land of 3 acres in his favour and therefore he attempted to abduct Sachin Kamathe so as to coerce Meera Pokale to do the needful. The facts would further indicate that Meera Pokale was called at a particular spot and the accused Amol Yeole was present with Sachin Kamathe at the relevant time.

7 Learned counsel for the applicant submits that the said attempt was made only to coerce Meera Pokale to meet the demand of Amol Yeole. It is also submitted that the applicant is being prosecuted under the provisions of MCOCA and therefore does not deserve to be enlarged on bail.

8 There is no confessional statements of any of the co-accused, which would mark the overtact of the applicant. The applicant has no criminal antecedents. It is in these facts and circumstances of the case, more particularly the fact that there is no material to indicate that the applicant is associated with Pappu Utekar and secondly he has no criminal antecedents, this Court can record satisfaction as contemplated under Section 21(4) of the MCOCA. Hence, the applicant has made out a case for grant of bail.

9 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the order :

ORDER

- i) The application is allowed.
- ii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- iii) The applicant shall not reside in Jejuri or Ghayri till conclusion of trial.

iv) The applicant shall report to Shivaji Nagar police station on 1st and 3rd Sundays of each month between 10.30 am. to 12.00 noon till charge is framed.

v) The applicant to give an undertaking to the Sessions Court within four weeks from the date of his release and that he would not seek an adjournments and not file exemption applications, after the commencement of the trial.

(Smt. Sadhana S. Jadhav, J)