

15- BA 810 of 2018

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

BAIL APPLICATION No. 810 OF 2018

Vivek Vijay Wadekar

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket U. Nikam i/b. Mr. Aashish Satpute for Applicant

Mr. S.H.Yadav -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 10, 2018

P.C.

1. Heard. This is an application under Section 439 of the Criminal Procedure Code.

2. The Applicant herein is arrested on 24th August, 2017 in Crime No. 302 of 2017 registered at Khed Police Station for offences punishable under Section 364AA, 385, 386, 387 of the Indian Penal Code and under Section 4 r/w. 25 of the Indian Arms Act. The investigation is completed and the charge-sheet is filed.

3. It is the case of the prosecution that on 22nd August, 2017, Mahammad

Aashraf Karim Ansari lodged a report at Khed Police Station alleging therein that on 20th August, 2017 when he was in Amar Marble Shop, Yuvraj Kumbhar and four unknown persons had been to the shop and pulled down its shutter. Yuvraj Kumbhar had assaulted the complainant with a sickle and his associate had assaulted the complainant with fist and kick blows and had taken him along with them to the house of one bhai, where all the accused persons had demanded an amount of Rs.40,000/-. The first informant assured the said persons that he would sale his flat worth of Rs.10,00,000/- and make an arrangement of payment. On the next date i.e. 21st August, 2017, they had dropped the complainant to his house and had threatened him not to disclose the incident.

4. It is the case of the prosecution that the persons, who had kidnapped the complainant from his house, had taken the first informant to the house of the Applicant. It is submitted that the present Applicant has sustained fracture to his legs below knee. That his condition was indispensable on that day when the incident had occurred.

5. It is the case of the prosecution that the Applicant has abetted the commission of the said crime as he was initially working with an advocate and was fully aware that the complainant had cash available in his house as a

wedding was to ensue in the house of the complainant.

6. The learned counsel for the Applicant submits that it is true that at that time the Applicant was bed ridden. There was bandage to his legs and, therefore, he cannot be charged with an offence punishable under section 364A of the Indian Penal Code. The supplementary statement of the complainant was recorded and he has also endorsed that on the date of the incident, the applicant was bed ridden and his legs were bandaged. It is further pertinent to note that the Applicant had not caused any harm to the Complainant. He had no role to play in act of kidnapping. The first informant claims to have identified the persons who were purportedly identified by the witnesses.

7. It is in these circumstances, the application deserves to be allowed. The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the following order:

ORDER

- (i) Application for bail is allowed.
- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond of Rs.50,000/- and one or more sureties in the like amount.

(iii) The Applicant shall report to the concerned police station from 19th July, 2018 at regular intervals.

Application for bail stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]

Vaishali
Anil Tikam

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