

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

CRIMINAL BAIL APPLICATION NO. 2273 OF 2017

Ajit Atmaram Aparaj

... Applicant

Vs.

State of Maharashtra

... Respondent

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Ms. Mansha Khemka a/w Ms. Bhagyashree Upadhyay I/by Khemka & Associates for the applicant.

Mrs. Vidya Kastle, Special Public Prosecutor a/w Ms. A.A. Takalkar, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 26th NOVEMBER, 2018.

P.C.

1. This is an application for bail in connection with C.R. No. 45 of 2015 registered with Tilak Nagar Police Station under Section 341, 328, 344, 364 A, 386, 387, 392, 120 B of Indian Penal Code read with 34 of Indian Penal Code and also under Section 3 read with 25 of the Arms Act read and 37(1) and 135 of Bombay Arms Act. The applicant was arrested on 26th April, 2015.

2. The prosecution case is that the victim aged about 21 years was abducted by unknown person. Subsequently ransom calls were made and the informant was threatened, resulting in parting amount of Rs.2 crore.

3. Applicant as well as other accused were arrested. On completing investigation, chargesheet has been filed. The applicant preferred an application for bail before the Sessions Court which was rejected on 29th April, 2016. Learned counsel for the applicant submitted that there is no cogent evidence against the applicant to show his involvement in the crime. First Information Report was registered against the unknown person. Applicant has been falsely implicated in this case. There is no test identification parade. Identification was done at the police station where the accused was shown to the witness. The applicant is in the business of sale of motor vehicle. Although there is recovery at the instance of the applicant, the prosecution has not been able to establish that the amount which was recovered is the same amount which is parted towards the ransom calls made by the accused. It is further submitted that the applicant has been falsely implicated in other cases which were registered against unknown person. The description of the currency notes relied upon by the prosecution suffer from discrepancy. The applicant is in custody for a period of about more than three years. The prosecution has examined only one witness and there are several other witnesses which are yet to be examined and therefore the trial would not be

concluded within short span of time. It is further submitted that amount was allegedly parted to the accused after the ransom calls received by the witness and it is difficult to accept that after the matter was reported to the police. The family of victim had parted with such huge amount. Merely on the basis of call record, the applicant cannot be shown to be involved in the said crime. There is no authentic evidence to establish the involvement of the applicant.

4. Per contra, learned Special Public Prosecutor strongly opposed the application for grant of bail. It is submitted that there is voluminous evidence against the applicant showing his involvement of the crime. Statement of the victim refers to description of the accused involved in the crime. There is evidence of call records indicating the involvement of the applicant. He has been identified by the victim. Considering the description given in the statement of the victim and in the factual circumstances of the present case, the identification conducted by the police is not vitiated. It is further submitted that there is recovery of amount of Rs.30,00,000/- from the house of applicant. Amount of Rs.49,14,000/- was recovered from the bank locker of the wife of the applicant (accused No.9). It is submitted that there is

sufficient cogent evidence to establish the involvement of the applicant in the crime. It is submitted that the trial has commenced and one witness is examined by the prosecution. It is therefore submitted that application be rejected.

5. I have perused the document on record. The prosecution case is abduction of 21 years old boy and demand for ransom which resulted in giving huge amount of Rs.2 crore in pursuant to threats received by the victim family. Victim has given description of the accused. Applicant has been identified by the victim. Any discrepancy with regards to the identification parade, more particularly in the facts of this case it can be adjudicated during the trial. There is recovery of huge amount from the house of the applicant and the from the bank locker of the wife of the applicant. According to prosecution the amount recovered is connected with the crime. It is the case of the prosecution that before parting the amount the complainant had recorded the video of the currency notes which was parted to the accused. It was also noted that the applicant is allegedly involved in two other cases. Counsel for the applicant submitted that the said cases were registered against unknown person and in pursuant to arrest of applicant in the present case, he has been shown to be involved in those cases.

There is substantial evidence showing the involvement of the applicant. The infirmity pointed out by the learned counsel for the applicant can be agitated during the trial. Therefore, no case for grant of bail is made out. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application stands rejected.
- ii. Trial Court shall make an endeavour to proceed with the trial as expeditiously as possible. It is expected that the accused shall co-operate with the Court in proceeding with the trial.

(PRAKASH D. NAIK, J.)