

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

BAIL APPLICATION NO. 2543 OF 2017

Shekhar Appa Ukrande.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Satyavrat Joshi, advocate for Applicant.

Ms. P.P. Shiinde, APP for State.

Mr. Sandip S. Gosavi, PSI, Saswad Police Station, Pune(Rural).

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 16, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is charge-sheeted in Crime No. 119 of 2015 registered at Saswad Police Station for offence punishable under section 364A, 365, 385, 395 of the Indian Penal

Code and section 3(1)(ii), 3(4) of the Maharashtra Control of Organised Crime Act.

3 It is the case of the prosecution that on 4/5/2015 one Meera Pokale lodged a report at Saswad Police Station alleging therein that her son-in-law Amar Tanawade 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 Tanawade 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 4/5/2015 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 report. They found two vehicles near Jejuri Naka where Sachin was found alongwith other persons. The police had

accosted Pravin Shelar and co-accused on the spot. They were subsequently arrested. The associates of Amol Yeole were not named in the FIR. 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 The learned Counsel for the applicant submits that the present applicant was residing at Kothrud, Pune at the relevant time. He was never apprehended by the police and therefore, it cannot be said that he was absconding.

5 The applicant was arrested on 18/9/2016 i.e. practically after more than a year after occurrence of the alleged incident. The applicant was subjected to the test identification parade. It appears from the papers of investigation that the applicant was not identified by any of the witnesses.

6 The learned APP fairly admits that the applicant has no criminal antecedents. He has not been charge-sheeted alongwith Pappu Utekar in any of the offence. It is the case of the prosecution that Pappu Utekar is the leader of the organisation. As on today, there is no material to clearly indicate that the applicant was one of the associates of Amol Yeole who had abducted Sachin on 4/5/2015.

7 The learned Counsel for the applicant also drawn attention of this Court to the order dated 8/2/2017 by which the co-accused Ramdas Wanjale, Anil Kadam and Pravin Shelar were enlarged on bail by this Court(Mrs. Mridula Bhatkar,J). It is also submitted that two of the said accused were identified by the witnesses as associates of Amol Yeole and that they have been enlarged on bail. Learned Counsel submits that the by virtue of doctrine of parity applicant also deserves to be enlarged on bail.

8 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 However, it is made clear that the observations made hereinabove are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The trial court shall not be influenced by the same while deciding the application for discharge or for quashing of FIR or at the time of trial.

10 Hence following order is passed :

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 Dhayri till the conclusion of trial.

(iv) The applicant shall report to Shivaji Nagar Police Station on 1st and 3rd Sunday of each month between 10.30 a.m. to 12 noon till the charge is framed.

(v) The applicant shall not tamper with the evidence.

11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)