

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

CRIMINAL BAIL APPLICATION NO.2949 OF 2017

Bhagywant @ Mona Kantilal Thorbole	..Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Aniket U. Nikam i/b Mr. Sachin T. Zalte for the Applicant .
Mr. N. B. Patil, APP for the Respondent.
Mr. B. M. Narwate, PSI Akkalkot Dakshin Police Station, Solapur(Gramin)

**CORAM : P. N. DESHMUKH, J.
DATE : 20th MARCH, 2018**

P.C.:

. Heard Mr.Nikam, learned counsel for the applicant and Mr.Patil, learned APP for the State. This application is for grant of bail in C.R. No.205/2018 registered with Barshi City Police Station for the offence punishable under sections 364A,143, 323 read with 34 of IPC.

2. Learned counsel for the applicant submitted that investigation is complete and in the entire charge-sheet no involvement of applicant is found established, who is arrested on 25/6/2017 and after his arrest his involvement is shown on the basis of additional statement of victim recorded on 26/8/2017 which came to be recorded after 3 months from the date of incident. It is further contended that vehicle alleged to be involved in the present crime is recovered at the instance of co-accused under section 27 of the Indian Evidence Act and therefore submitted that in view of above facts and as from the report no involvement of applicant is found established and therefore submitted that application be allowed by imposing suitable conditions on the applicant.

3. Learned APP opposed the application contending that there is sufficient evidence establishing involvement and that from the statements of Dadasaheb Shinde and Dyandeo Shinde it is revealed that on the date of incident applicant was found present with the vehicle involved in the crime and co-accused in a field where victim was kept for demanding ransom of Rs.50 Lakhs and prayed that application be rejected.

4. In the background of submissions advanced as aforesaid perusal of report filed by wife of victim reveals that on 11/5/2017 after 6.00 a.m., victim had left home for morning walk, at around 6.30 a.m. one Vinay Pawar came to inform her that 4 persons had kidnapped her husband near Gauri Hotel. Accordingly, report came to be lodged and offence as aforesaid came to be registered. Considering the contents of report there is nothing to establish involvement of applicant.

5. Perusal of statement of Vinay Pawar reveals that on hearing shouts as “vachawa vachawa” he gave attention towards one vehicle where 3 persons were forcibly pushing one person inside the car, whom he was knowing being his neighbour and had given physical description of one amongst three persons. Admittedly, Vinay Pawar was not put for identification of applicant though he has identified co-accused.

6. In that view of the matter even from the statement of Vinay Pawar involvement of applicant is not prima facie established.

7. Perusal of statement of victim reveals of he having been kidnapped at 6.00 a.m. near Gauri Hotel when he had gone out for morning walk by three persons who had forcibly made him to sit in one car and while proceeding in vehicle demanded ransom of Rs.50 Lakhs. He has further stated that after proceeding for some distance, car was stopped for

3-4 hours when 4th person joined the accused persons who was aged 25-26 years and had muffled his face with handkerchief. Thereafter ransom was negotiated to 25 Lakhs which was directed to be paid by victim on Saturday at the place which they would inform on phone and on failure was extended with threats to be killed. According to victim when said ransom was demanded all the three persons had removed handkerchief by which they had covered their faces and had given physical description of one amongst them as tall and black while others as short in height. Victim was left at around 1.30 p.m. near Varadwadi from where he went to his house with the assistance of one of his student.

8. Even on considering said statement of victim there is no prima facie involvement of applicant established. It is only in his additional statement which is recorded three months after the earlier statement, applicant is involved as 4th person who joined three co-accused and has stated to have identified by victim in test identification parade. Except as above there appears no substantive evidence against applicant. It is material to note that additional statement is recorded on 26/8/2017 and before that applicant was arrested on 25/6/2017.

9. Learned APP on obtaining instructions submitted that involvement of applicant is established from the statement of Dadasaheb Shinde and Dyandeo Shinde. On perusal of their statements, except that applicant is close relative of both of them and is found present in the field of Dadasaheb alongwith one vehicle and two persons, nothing can be said to be established. On specific query put to learned APP, on instructions it is replied that there is nothing to show that vehicle and two persons who were found with applicant in the field as stated by Dadasaheb Shinde and Dyandeo Shinde are the co-accused or the vehicle is the same involved in the crime.

10 In view of above, since investigation is complete and charge-sheet is filed and since there are no criminal antecedents against applicant, application is allowed. Hence order:

ORDER

- i) Applicant shall be released on bail in C.R. No.205/2017 registered with Barshi City Police Station, Solapur on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount;
- ii) Applicant shall mark his presence with Barshi City Police Station, Solapur on first day of each month initially for a period of 6 months and thereafter quarterly on first day of each such month pending trial.
- iii) Application is disposed of as allowed.

(P.N. DESHMUKH, J)