

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2390 OF 2019**

Mr. Sanket Subhash Patne

... Applicant

V/s

State of Maharashtra

... Respondent

Mr. D. J. Deshmukh for the Applicant.

Mr. P. H. Gaikwad, APP for the State.

Mr. Deepak Sarode, API, Mahatma Phule Chowk Post, Kalyan.

**CORAM : PRAKASH D. NAIK, J.
DATED : 7th October, 2019**

P.C.:

This is application for bail in Crime No. I-61 of 2019 registered with Mahtma Phule Chowk Police Station, Kalyan, District-Thane for the offences punishable under section 363, 394 and 34 of the Indian Penal Code.

2. The First Information Report (FIR) was lodged by Shri. Horilal Mahto on 7th February, 2019 alleging that the Complainant and other witnesses Rajesh Thakur and Sajan Thakur were forced to sit in the Auto Rickshaw and they were robbed of the cash amount. It is also alleged that the victims were assaulted. The Applicant was allegedly driving Auto Rickshaw in which the victims were abducted. The Applicant was arrested on 7th February, 2019 and on completing the investigation chargesheet is filed.

3. The learned counsel for the Applicant pointed out the statements of the Complainant and other victims Mr. Rajesh Thakur and Sajan Thakur. It is submitted that the Applicant cannot be attributed the knowledge of the alleged act of abduction and robbery committed by the co-accused. There are no antecedents against the Applicant.

4. Learned APP submitted that the offence is of serious nature. During the course of the investigation complicity of the Applicant/ Accused was revealed. The Applicant has disclosed the names of the co-accused who were involved in the commission of crime. He further submitted that the statement of the Complainant indicate that the Applicant had knowledge about the act committed by all the Accused and apparently he was a party to the offences of abduction and robbery.

5. The Complainant and other victims Rajesh Thakur and Sajan Thakur were employed as waiters in hotel City Palace at Kalyan. According to Complainant, on 07.02.2019 at about 3.00 PM all of them were walking towards station. At about 3.30 PM two persons sitting on rear seat of the auto rickshaw forcefully dragged victims in auto rickshaw and threatened them. Rajesh Thakur was made

to alight from rickshaw and others were assaulted and persons sitting on rear seat robbed complainant of cash of Rs.8,000/- and he was dropped at some place and the accused proceeded further with Sajan Thakur. Subsequently, Sajan Thakur informed Complainant that he was robbed of cash of Rs.2000/- and assaulted by accused.

6. The Applicant was arrested on 07.02.2019. It is not clear as to on what basis he was arrested. The Co-accused were not arrested. The Police report dated 11.03.2019 indicate that identification parade was to be conducted. The order rejecting bail passed by Session Court dated 22.07.2019 mentions that Applicant has been identified by witnesses. Apparently identification was conducted belatedly. There is no recovery of incriminating articles from Applicant. Prosecution has not putforth any evidence showing link between Applicant and Co-accused. The statement of Rajan Thakur has state that they came across one person who got dashed and his mobile phone fell down. There was quarrel between them. Another person joined him and all the victims were dragged into auto rickshaw and thereafter they were robbed. Sajan Thakur has also given similar version. There

statements are at variance with statement of Complainant. The Complainant has not referred to quarrel and had stated that two persons were already sitting in auto rickshaw when incident had occurred. Learned APP submitted that all the accused had acted in connivance.

7. The statements are contradictory. Admittedly there are no antecedents against the Applicant. The investigation is complete and chargesheet is filed. Further detention of the Applicant is not necessary.

8. Hence, the case for the grant of the bail is made out.

ORDER

- a. Bail Application No. 2390 of 2019 is allowed.
- b. The Applicant is directed to be released on bail in connection with Crime No. I-61 of 2019 registered with Mahatma Phule Chowk Police Station, Kalyan (West) on his furnishing PR Bond in the sum of Rs.15,000/- with one or more surety in the like amount.
- c. The Applicant shall report to Mahatma Phule Chowk

Police Station, Kalyan (West) on first Saturday of every month between 11.00 AM to 1.00 PM till further order.

d. The applicant shall furnish his place of residence to the investigating officer after he is released on bail.

e. Observations made in this order are only for the consideration of grant of bail to the Applicant and the Trial Court shall not influenced by the same at the time of trial.

f. Application is disposed of.

(PRAKASH D. NAIK,J.)