

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

BAIL APPLICATION NO.2056 OF 2019

Vijay @ Kalba Rambhau Gaikwad	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

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Mr. Shekhar A. Ingawale, Advocate for the Applicant.
Mr. H. J. Dedhia, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 29, 2020.

P.C. :

The applicant is seeking bail in connection with C.R.No.4 of 2016, registered with Gandhinagar Police Station, Kolhapur, for the offence punishable under Section 364(A) read with 34 of Indian Penal Code (“IPC”, for short).

2 First Information Report (“FIR”, for short) was lodged by Sunil Gopichand Nirankari on 28th January, 2018. It is alleged that the victim was kidnapped by unknown person and they demanded ransom of Rs.1 crores for releasing him. Complaint was lodged by the nephew of the victim. On second day of the kidnapping, the victim was released.

3 Applicant was not named in the FIR, however, it is the case of the prosecution that three persons were arrested on 28th January, 2018. During their interrogation, the involvement of applicant was disclosed by them. The applicant was arrested on 6th December, 2018.

4 Learned counsel for the applicant submits that three other persons who were arrested earlier were prosecuted and the case against them has resulted into acquittal. They were not identified by the victim. There was no Test Identification Parade. Amount was not parted. Even the applicant was not identified. The trial Court has observed that Shamlal has deposed in his evidence that he would not identify the accused as he had not seen the person who kidnapped him. The accused were allegedly wearing mask.

5 Learned APP submitted that the applicant's involvement is disclosed during the interrogation of the accused. The applicant was absconding after the incident and he was arrested in 2018. Several cases were registered against him. The learned counsel for the applicant however submits that in some cases he is acquitted and in other cases he is on bail. It is

submitted that the cases were registered for minor offences. There is absolutely no reason to detain the applicant further. He is in custody since last 14 months.

6 On perusal of documents it is apparent that the name of the applicant was not mentioned in the complaint. FIR was lodged against unknown persons. The arrested accused were not identify him. The complainant in his evidence deposed that he could not identify the person who kidnapped him. The accused were arrested. The applicant was arrested in 2018, however, it is pertinent to note that there was no test identification parade. There is no evidence to show his involvement in the crime. There is no CDR. There is no evidence to indicate that the applicant was present at the scene of offence while committing the alleged act. For lack of evidence showing presence of the applicant at the scene of offence, the applicant cannot be detained further in custody. He is in custody from 6th December, 2018. Hence, application can be granted on certain terms and conditions.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2056 of 2019, is allowed;

- (ii) Applicant is directed to be released on bail in connection with C.R.No.4 of 2016, registered with Gandhinagar Police Station, Kolhapur, on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report concerned police station once in a month on first Saturday of the month, between 11:00 a.m. to 01:00 p.m., till further orders;
- (iv) Applicant shall furnish details about his place of residence after his release from jail to the investigating officer;
- (v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)