

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.45 OF 2021

Sachin s/o Popat Leve

Age: 19 years, Occu.: Education,

R/o. Panchwati, Nashik,

Tq. & Dist. Nashik

... Applicant

Versus

The State of Maharashtra

Through Police Station Officer,

Police Station Sangamner,

Tq. Sangamner, Dist. Ahmednagar

... Respondent

.....

Mr. P. S. Paranjape, Advocate for applicant.

Mr. S. B. Narwade, APP for respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 18th February, 2021

ORDER :-

. Present applicant has been arrested in connection with Crime No.528 of 2019 registered with Sangamner City Police Station, District Ahmednagar for the offences punishable under Sections 363, 364(A), 342, 120(B), 201, 34 of Indian Penal Code and Section 3/25 of the Indian Arms Act. He has filed present application for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. P. S. Paranjape for the applicant and learned APP Mr. S. B. Narwade for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that initially the grandfather of the minor, who is stated to be kidnapped, had lodged report against unknown persons and at that time, it was only under Section 363 of Indian Penal Code. It was stated in the FIR that the grandson of the informant had gone out of the house for going to school at about 7.15 a.m. on 09.08.2019, however, around 11.00 a.m., the informant got phone call on his mobile stating that the grandson has been kidnapped. The informant is a businessman from Sangamner and he has cloth store. He made enquiry with the driver and care taker of the school bus, but it was revealed that the grandson had not reached to the school. Thereafter, the FIR came to be lodged.

4. It has been further submitted on behalf of the applicant that now the investigation is over and charge-sheet is filed. From the search of co-accused, the mobile has been seized, so also one country made pistol and cartridges have been seized. As regards the present applicant is concerned, it is stated that a knife like weapon i.e. chopper has been seized. The phone number which has been stated in the FIR from which it appears that ransom of Rs.10 Crores was demanded is not belonging

to any of the co-accused. There is no direct evidence against the present applicant. The applicant is aged 19 years. Statement of the grandson of the informant would show that he has not attributed any kind of role to the present applicant. Possibility that the accused would have been shown to the grandson prior to holding of identification parade is not ruled out. Further, it is not the prosecution case that the accused was arrested while accepting the ransom amount. In fact, the applicant is taking education. He has studied up to 10th standard and had taken admission in 11th standard. There are no criminal antecedents against him. He is permanent resident of Nashik city. He is ready to abide by the terms of the bail.

5. Per contra, learned APP strongly opposed the application and submitted that taking into consideration the offence that is lodged against the present applicant and the manner in which it is stated to have been committed would disentitle him from claiming bail. His age will not be the relevant factor. Out of five accused persons, two are stated to be aged 19 years and at this age, they have indulge themselves in such crime. They had the knowledge that the grandson could fetch them huge amount and, therefore, he has been kidnapped. The grandson was then aged 12 years and was taking education in sixth standard. After tracking the phone number, the present applicant has

been arrested. From accused No.2 - Janardhan Khandu Bodke who was then 19 years of age, one country made pistol having magazine in which there were two alive cartridges, so also cover of two cartridges were found. From the present applicant, chopper has been recovered. After the grandson had rescued himself from clutches of the accused persons, he himself had found out way to reach to police as well as his family members. His statement has been recorded under Section 161 of the Code of Criminal Procedure as well as under Section 164 of the Code of Criminal Procedure. It shows that he was taken away by three persons and when the identification parade has been conducted by the Executive Magistrate, he has identified the present applicant as one of those three persons. Statement of witnesses have been recorded which includes the person to whom the grandson had disclosed the fact of his kidnapping immediately after he got himself rescued. Under such circumstance, there is ample evidence against the present applicant and, therefore, he does not deserve to be released on bail.

6. Though the informant, who is the grandfather of the minor son who has been kidnapped, was not knowing the fact of kidnapping and only after he had received the phone call disclosing about the kidnapping, he has lodged the complaint against the unknown persons. However, it appears that the grandson who was then 12 years of age was

brave enough to get himself rescued and he has given all the details as to how he got himself rescued and then contacted his family members. It appears that in between the informant had received message from the kidnappers regarding the demand of amount of Rs.10 Crores. After the accused persons have been arrested, at the time of their personal search, weapons like pistol having alive cartridges and chopper have been recovered. Further, the important piece of evidence is the identification parade which has been carried out in presence of Executive Magistrate. In view of Section 291-A of the Code of Criminal Procedure any document purporting to be a report of identification under the hand of an Executive Magistrate in respect of a person or property can be used as evidence in any inquiry, trial, or other proceedings under this Code and, therefore, taking into consideration the evidence that is collected against the present applicant, the manner in which the offence has been committed and the demand that is made taking into consideration the fact that the grandfather of the child can fulfill the demand, the applicant is not entitled to be released on bail. Hence, the application stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm