

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.178 OF 2021

Ravindra s/o Balasaheb Bairagi,
Age 22 years, Occupation Driver,
R/o Nandurkhi Tq. Rahata District
Ahmednagar.

**...Applicant
(Original Accused)**

VERSUS

The State of Maharashtra.

...Respondent

.....
Advocate for Applicant : Mr. Chaitanya Deshpande h/f
G. M. Sharma and A.P.Nagore

APP for Respondent-State : Mr. S. Y. Mahajan.

.....

CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
08-03-2021.**

**Date of Pronouncing The Order :
16-03-2021.**

ORDER :

1. Present applicant has been arrested on 31-12-2020 in connection with Crime No.801 of 2020 by Shirdi Police Station, for the offences punishable under Section 307, 367, 394, 452, 341, 323, 504, 506 read with 34 of Indian Penal Code and under Section 4/25 of Arms Act. He has filed present application for releasing him on bail under Section

439 of Code of Criminal Procedure.

2. Heard learned Advocate Mr. Chaitanya Deshpande holding for Mr. G. M. Sharma and Mr. A. P. Nagore for applicant and learned Additional Public Prosecutor Mr. S. Y. Mahajan for respondent-State.

3. It has been vehemently submitted on behalf of the applicant that the First Information Report has been lodged by one Rajendra Laljibhay Bhanderi and it appears that he had dispute with accused No.1 Vishal Ashok Kote. As regards the present applicant is concerned it is stated that he was forcibly taken in auto rickshaw from a place near Hotel Gurukrupa in Shirdi and was taken towards the railway bridge and he was assaulted by Vishal Kote, Manoj Wagh, Suyog Gayke and present applicant. He was forcibly made to drink liquor and it was told by accused No.1 that they would eliminated him. However, at that time one farmer came in tractor at that place and, therefore, the informant was again made to sit in rickshaw and was taken to a kilometer away. At that place also he was assaulted by the other three accused. Vishal Kote had then assaulted him with sharp scythe. They had forcibly taken amount of Rs.27,000/- from his pocket. Accused Vishal Kote had ill eye on the wife of the informant and, therefore, he was threatening informant that he should give divorce to his wife and he should leave Shirdi.

Thereafter, all the four accused persons brought him to Rahata Road in a rickshaw and then Vishal Kote had forcibly taken Automated Teller Machine (ATM) Card from the pocket of informant. He had withdrawn the amount from Axis Bank ATM near 1000 Rooms and kept the said ATM Card with him. Thereafter, the informant was left to his house and again he was threatened that he should leave Shirdi.

4. Learned Advocate for the applicant further submits that no specific role has been attributed to him. No doubt the present applicant is a rickshaw driver but he has no concern with the other accused persons. He was not even present at the spot of the incident. He has no criminal antecedents. His father is handicapped and mother is suffering from cancer and, therefore, he needs to pay attention to the health of his parents. Now substantial part of the investigation is over, his further physical custody is not required.

5. Per contra, learned Additional Public Prosecutor strongly opposed the application and submitted that the applicant has played important role in abducting and assaulting the informant. Though he may not be having a direct motive to commit said crime but he was along with his friend and helping him in the said illegal act. One Sagar Chavan is the eye-witness and he says that informant had

come to his shop i.e. witness Sagar Chavan's shop at about 01.30 p.m. on 30-12-2020. Informant received phone call from somebody but thereafter he became frightened. Thereafter, one auto rickshaw came in front of the shop of this witness and Vishal Kote and his three associates got down. They had forcibly put Rajendra in that rickshaw though Rajendra was shouting for help. Due to the terror of Vishal Kote though many persons were watching the incident, nobody had tried to intervene. On the same line there are statements of other witnesses. Statements of the informant and others have been taken under Section 164 of Code of Criminal Procedure. The Medico Legal Certificate of the informant shows that he had sustained three injuries, one was CLW over right maxillary region, another is heamatoma over right fronto temporal region, and third is multiple abrasions over back of neck. The weapon that is scythe has been discovered by accused No.1, and the Medical Officer has given opinion that the injury sustained by the informant are possible by such weapon. Therefore, there is ample evidence against the present applicant which disentitles him from claiming bail.

6. As the contents of the First Information Report are already stated, they are not reproduced here, however in the nutshell it can

be said that the informant says that the accused No.1 Vishal Kote had ill-eye on his wife and, therefore, used to harass the informant. On his say the informant went at about 01.30 p.m. from his house and was near Hotel Gurukrupa and at that time the accused persons came and abducted him in rickshaw. At the outset, it is to be noted that the names of the other three persons have been stated by the informant in his First Information Report, but as regards the present applicant's name is concerned, he states that he came to know about his name later on. That means, he was not knowing applicant earlier. At this stage the police papers do not show that there was identification parade held. No doubt Closed-circuit Television (CCTV) footage of the Axis Bank has been taken and the possibility of identification of the present applicant by somebody cannot be ruled out, but at this stage picture that is appearing is that the informant was not knowing the name of the present applicant prior to the First Information Report. The role attributed to the present applicant is that he had assaulted the informant by hands because it is not stated that he had used any weapon. Main acts are attributed to accused Vishal Kote. He appears to have been taken the amount forcibly from the pocket of the informant. It is not the case of the informant that present applicant was driving the said auto rickshaw. Though as regards the abduction is concerned, certain witnesses are

saying that they had seen informant being forcibly taken in the auto rickshaw and due to the terror of accused Vishal, they could not intervene; as regards the present applicant is concerned it appears that there is no identification parade by these eye-witnesses. Whatever discovery has been made in this case is either by said Vishal Kote or by co-accused Gayke. Therefore, taking into consideration the evidence that has been collected as against the present applicant and the fact that it would take long time to stand his trial as well as the fact that his father is handicapped and mother is suffering from cancer, he deserves to be released on bail on conditions. Hence, following order.

ORDER

- 1) Applicant Ravindra s/o Balasaheb Bairagi, arrested in connection with Crime No.801 of 2020, registered with Shirdi Police Station Dist. Ahmednagar, for the offences punishable under Section 307, 367, 394, 452, 341, 323, 504, 506 read with 34 of Indian Penal Code and under Section 4/25 of Arms Act, he be released on P.R. of Rs.50,000/- (fifty thousand) with two solvent sureties of Rs.25,000/- each (Twenty-five thousand).
- 2) The applicant shall not tamper with the evidence of the prosecution in any manner.

- 3) He shall not indulge in any criminal activity.
- 4) Before submission of bail papers, the applicant should give complete address of his residence with his mobile number. So also he should comply with the requirements under paragraphs No.12 (1) to (6) of Chapter I of Criminal Manual, whichever are applicable.
- 5) The applicant to attend Shirdi Police Station Dist. Ahmednagar, on every Monday and Friday in between 09.00 a.m. to 12.00 noon and maintain diary of his attendance duly countersigned by the Police Station officer, till filing of the charge-sheet.
- 6) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-