

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 CRIMINAL APPLICATION NO.2182 OF 2020
IN APPEAL/623/2020

JILANI KHAJA SIKALKAR AND ANOTHER

VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicants : Mr. S.S. Kazi
APP for Respondents: Mr. R.V. Dasalkar
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**CORAM : V. K. JADHAV AND
S. G. DIGE, JJ.
DATED : 7th JULY, 2021**

PER COURT:-

1. Pending criminal appeal No. 623 of 2020 preferred against the judgment and order of conviction passed by the Additional Sessions Judge, Parbhani on 31.7.2020 in Sessions Trial No. 35 of 2018, convicting thereby the applicants for the offences punishable under Section 364-A r.w. 34 of I.P.C. and sentencing them to undergo the imprisonment for life and to pay fine of Rs.1000/- each, the applicants have filed the present application for suspension of substantive part of sentence and also for bail.

2. Learned counsel for the applicants original accused submits that in terms of the provisions of Section 364-A of I.P.C. "threat" is necessary ingredient. Learned counsel submits that there is no evidence to indicate that the victim was given threats. Learned counsel in order to substantiate his contentions placed reliance on

the judgment of Supreme Court in the case of ***Shaik Ahmed vs. State of Telanga, reported in MNAU/SC/0386/2021.***

3. We have also heard learned A.P.P. for the respondent State.

4. It has been alleged that on 25.10.2017 in between 10.00 a.m. to 12.00 noon at Parbhani both these applicants kidnapped the victim P.W.3 Abhishek for the purpose of ransom of Rs.20,00,000/- and kept him in detention and threatened him. We have carefully gone through the statement of victim Abhishek. He was just 13 years old boy at the relevant time. According to him, on 22.10.2017 two unknown uncles met him on Idgah ground when he was playing the cricket. They had appreciated his game and further informed him that if he comes on the next day, they would give him Rs.20/-. On the next day when the victim Abhishek went to play cricket on the same ground, the said two uncles again came there. They have informed him that if the victim plays cricket well they would give him bat and ball. The victim Abhishek has further deposed that the fat uncle gave Rs.10/- to one Vijay to bring the water pouch. On 23.10.2017 when the cricket ball was found missing, the fat uncle gave Rs.20/- to Vijay to bring a new ball. On 24.10.2017 when victim Abhishek had been to same ground, at that time said fat uncle again gave Rs.20/- to Vijay to bring a new ball. Those two unknown persons have again called the victim on Idgah maidan on the next day morning to have new bat ball. Thus, on the next day morning at

about 9.30 a.m. when the victim had been to the said ground he was kidnapped.

5. The victim Abhishek has deposed that he was given threats by those two uncles to keep quiet, otherwise they would kill him. Further in his presence, the fat uncle has called his father on phone asking him to pay Rs. 20,00,000/- ransom. It is a part of evidence that when the said two persons (applicants herein) went to railway station for collecting the amount from the father of victim Abhishek, they were caught red handed by the police alongwith victim Abhishek. It is not necessary to mention here that father of the victim Abhishek had informed to the police about it and accordingly police party had arranged the trap.

6. Though learned counsel for the applicants has vehemently submitted that the provisions of Section 364-A of I.P.C. are not attracted, however, considering the statement of victim Abhishek and since the applicants were caught red handed by the police alongwith the victim, we are not inclined to consider this application. Hence, we pass the following order:-

O R D E R

The application is hereby rejected.

7. At this stage, learned counsel for the applicants requested to expedite the hearing of the appeal. We are not inclined to direct the expeditious hearing of the accompanied criminal appeal, which is of the year 2020. Request stands refused.

(S. G. DIGE, J.)

(V. K. JADHAV, J.)

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