

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.360 OF 2020**

Akash Ananda Aaglave .. Applicant
Versus
The State of Maharashtra .. Respondent

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Ms.Sonal V. Parab i/b Rajeev Sawant & Associates for the Applicant.

Mr.Ajay Patil, APP for the State.

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**CORAM: BHARATI DANGRE, J.
DATED : 15th JULY, 2021**

P.C:-

1. The applicant is charge-sheeted alongwith seven other accused persons and two unknown person for having committed the offences punishable under Sections 364(a), 386, 120-B read with Section 34 of the IPC and under Sections 3(1)(ii), 3(2), 3(4) and 3(5) of the MCOC Act.

2. Perusal of the charge-sheet would reveal that the offence in question came to be registered on a complaint filed by one Vijay Kamble, who narrated that he was kidnapped by some accused persons in a gray colour Innova Car, which was

occupied by some persons, two sitting in front and one person sitting at the rear with one person by name Vishal Shinde, standing outside the car. The complainant allege that he was made to sit in the car and a detailed narration about what transpired thereafter is given in the complaint. It it alleged that he was assaulted and an amount of Rs.25,00,000/- was demanded from him. A phone call was made to his wife and some how an amount of Rs.70,000/- was arranged. After the amount was paid, he was dropped at the side of the road near Pachgaon. His belongings like mobile, pocket and some papers were returned to him, but amount of Rs.4,500/- from his pocket was removed. The call detail data from his mobile and some messages were deleted by the accused persons.

3. Pertinent to note that the applicant is not named in the FIR. The FIR came to be lodged on 03/05/2018 in respect of an incident dated 30/04/2018. The supplementary statement of the complainant was recorded on 08/06/2018, where he divulged the number of the gray colour Innova Car. Another supplementary statement is recorded on 15/08/2018 where the complainant was provided information about the material collected during the course of investigation and based on this

information, he named the present applicant-Akash Aaglave as his acquaintance. The allegation is that the gang leader Maruti Kamble and Akash Aaglave suspected that the complainant must have collected huge amount in form of loans and, therefore, they hatched a conspiracy to extort money from him. The complainant, in his supplementary statement, for the first time on 15/08/2018 i.e. approximately after a period of three months, disclosed that Innova was followed by one Scorpio, in which the applicant was present alongwith Maruti Kamble. Perusal of the statement would reveal that he makes such statement on the basis of the information received by him about the material that has been unearthed during the course of investigation. The applicant is, thus, named for the first time in the supplementary statement.

Surprisingly, he came to be arrested on 08/06/2018 itself and when pertinently asked about what is the material to suspect him as a part of the crime, which took place on 30/04/2018, learned APP is not able to lay his finger on any such material. The arrest of the applicant is sought to be justified on the basis of the confessional statement of the co-accused, but the said statement is recorded at much later point of time and admittedly, it is not included in the charge-sheet.

4. The affidavit placed on record and filed by the Deputy Superintendent of Police, Karveer Sub-Division, Kolhapur, is conspicuously silent on the said aspect of the matter. It only states that a cash of Rs.15,000/- was recovered from the applicant in pursuance of a disclosure statement on 12/06/2018. However, there is no material to show that the cash recovered from the applicant forms part of the same currency, which was handed over by the complainant to the accused persons, when extortion amount was demanded, on he being kidnapped. The reliance is placed on some call detail records to show that the applicant was in contact with the co-accused. There may be 'N' number of reasons why two people speak to each other, but merely being in contact, does not conclusively establish the guilt of the applicant and his involvement in the crime. The affidavit also makes reference to the confessional statement of co-accused Sushant Desai recorded under Section 18 of the MCOC Act, but learned counsel for the applicant invited my attention to the charge-sheet, which shows that co-accused Sushant Desai, on the date of filing of the charge-sheet, was absconding. Furthermore, the affidavit does not throw any light as to how and in what way,

the applicant is alleged to be a member of the organised crime syndicate by showing commonality of the crime committed by him alongwith the gang leader, which can be termed as continuous unlawful activities. Considering the *prima facie*, material compiled in the charge-sheet, which does not remotely suggests his involvement in the crime, the applicant is entitled for his release on bail, subject to the following conditions:-

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Akash Ananda Aaglave shall be released on bail in C.R.No.202 of 2018 registered with Juna Rajwada Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.
- (d) The applicant shall mark his presence in the Kolhapur Sessions Court in Sessions Case No.228 of 2019 once in a week for a period of

two months and thereafter as and when directed by the trial court.

5. It is made clear that the observations made hereinabove are, *prima facie*, in nature and limited to the extent of disposal of the present application.

[SMT. BHARATI DANGRE, J]