

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

CRIMINAL BAIL APPLICATION NO. 1059 OF 2021

Ajay Pradip Barmukh
Versus
The State of Maharashtra

...Applicant
...Respondent

Mr. Sachin Shivajirao Thombare a/w Mr. Rohan Hogle for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent–State

***CORAM : REVATI MOHITE DERE, J.
TUESDAY, 28th SEPTEMBER 2021***

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 9/2019, registered with the Bhore Police Station, Pune, for the alleged offences punishable under Sections 302, 201, 387, 440 r/w 34 of the Indian Penal Code.

3 Perused the papers. The prosecution case rests on circumstantial evidence. According to the complainant - Police Patil-

Hanumant, when he was returning to his house from his farm on 13th January 2019 at about 6:00 p.m, one Ganpat Janu Bandal of Village Kund disclosed to him that one woman namely-Kasubai Hanumant Bandal has seen one person lying in the bushes with his hands and feet tied with a rope. Pursuant thereto, the complainant informed the said incident to the village Sarpanch-Maruti Chandar Dere. Thereafter, all of them went to the said spot with a torch at about 8:00 p.m, in order to confirm the said news. According to the complainant, they found an empty plastic gunny bag and besides the said gunny bag, they found one person with blood oozing from his nostrils and mouth and noticed an injury on the back of his head. They also found that the person's hands and legs were tied with a rope and telephone wire and that there was a handkerchief in his mouth. Pursuant thereto, a complaint/FIR was lodged as against the unknown persons for the aforesaid offences. During the course of investigation, two persons came to be arrested i.e. the applicant and one Mahendra Bodake.

4 As far as the applicant is concerned, there is recovery of rope at his instance. Apart from the same, learned A.P.P is unable to point out any other material to connect the applicant with the alleged offence. Nothing incriminating was found on the rope, nor is there any material to suggest that the said rope was used in the commission of the offence. Although

according to the prosecution, the applicant's scooter was allegedly used in the commission of the offence, there is no material on record to suggest that the same was used in the commission of the offence. Nor are there any witnesses who have seen the deceased and the applicant on the said scooter. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

5 Considering the aforesaid material as against the applicant, which is not denied by the learned A.P.P, the applicant has *prima facie* made out a case for grant of bail.

6 Accordingly, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two sureties in the like amount;

- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, till the conclusion of the trial;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7 The application is accordingly disposed of in the aforesaid terms.

8 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.