

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3130 OF 2021

SHAMSTARBEJ @ KADEER KHWAJA)
SAIFNMULUK MULLA)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Raje Pandhare, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

Mr.Abhijeet Yuvraj Pawar, P.S.I., Kamshet Police Station, present in Court.

CORAM : V. G. BISHT, J.

RESERVED ON : 25th OCTOBER 2021
PRONOUNCED ON : 29th OCTOBER 2021

P.C. :

1 The present application has been moved by the
applicant under Section 439 of the Code of Criminal Procedure in
Crime No.99 of 2021 registered with Police Station Kamshet,

Pune Rural, for offences punishable under Section 364-A, 394, 143, 147, 149, 323, 504, 506 of the Indian Penal Code (IPC) and under Section 135 of the Maharashtra Police Act.

2 It is the case of the prosecution that informant's younger brother, namely, Vaibhav Mangesh Bhosale had performed intercaste marriage with one Afrin Khwajasahab Mulla and because of this, the applicant, who is brother of said Afrin Khwajasahab Mulla was annoyed. The prosecution alleges that on 29th March 2021 the applicant along with other persons kidnapped the said brother of the informant in a grey Swift Dezire Car bearing Registration No.KA-29-1093 and took him behind Hotel Nisarg, Kamshet, Maval, Pune. The informant accordingly lodged the report.

3 Mr.Rajepandhare, learned counsel for the applicant, submits that there is dispute between the family members of the applicant and informant. The learned counsel invited my attention to the complaint (Exh. F) written by said Afrin

Khwajasahab Mulla to Superintendent of Police, Solapur Rural, which shows that she herself had gone to Pune as said Vaibhav Mangesh Bhosale had assured to get her job. However, she alleges that thereafter, she was forced to marry him. According to the learned counsel the investigation in the matter is over. The other accused are also released on bail and therefore, the present applicant be also released on bail.

4 Smt. Anamika Malhotra, learned APP, on the other hand, invited my attention to the investigation papers and would submit that since the applicant and others had kidnapped the brother of the informant, the offence being of serious nature, there is no merit in the application. Moreover, there are eye witnesses to support the prosecution case and in such circumstances, the application deserves to be rejected.

5 I have gone through the investigation papers. It appears that the driver of the vehicle in which the alleged kidnapping had taken place is already released on bail by the

learned Additional Sessions Judge, Pune on 9th August 2021. Even otherwise, except the allegation of kidnapping, there is nothing on record to warrant the detention of the applicant behind the bars. It is also not disputed that investigation is over and the charge-sheet has been filed. In the circumstances, in my considered opinion, no useful purpose would be served by keeping the applicant behind the bars in as much as the trial may take considerable length of time. Similarly, no antecedents are brought on record.

6 For the aforesaid reasons, I am inclined to allow the application. Hence, the following order :

ORDER

- (i) Applicant – Shamstarbej @ Kadeer Khwajasaifnmuluk Mulla shall be released on bail in Crime No.99 of 2021 registered with Police Station Kamshet, Pune Rural, on his executing PR.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (iv) The applicant shall attend the concerned Police Station on the first Monday of every month, till the Charge is framed.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) The application is allowed in the aforesaid terms and stands disposed off.

(V. G. BISHT, J.)

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