

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPEAL NO. 416/2021.

Mohammad Salim Mohammad
Jabir Ansari, Aged 33 years,
Occupation – Business,
resident of Gulmohar Park,
Yavatmal, Tq. And District
Yavatmal.

... **APPELLANT.**

VERSUS

1. State of Maharashtra,
through P.S.O. Yavatmal City,
Tq. And District Yavatmal.
2. Chandan Sudam Hatgade,
Aged about 35 years,
Occupation – Labourer, resident
of Netaji Nagar, Yavatmal,
Tq. And District Yavatmal.

... **RESPONDENTS.**

Mr. Anil Mardikar, Senior Advocate with Shri I. Deshmukh,
Advocate for the Appellant.
Shri S.D. Sirpurkar, A.P.P. for Respondent No.1.
None for Respondent No.2.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 23, 2021.

ORAL JUDGMENT :

Heard.

Admit. By consent of learned Counsel for appellant and learned A.P.P., the matter is taken up for final disposal. Respondent no.2 has filed reply in resistance.

2. This appeal arises out of an order of rejection of pre-arrest bail in Crime No.481/2021 registered with respondent no.1 – Yavatmal City Police Station for the offence punishable under Sections 365, 397, 109, 504, 506 of the Indian Penal Code, Sections 3[2][va] of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Sections 3 and 25 of the Arms Act. Consequently, the appellant seeks for grant of pre-arrest protection.

3. Besides usual grounds bail is claimed on the ground of innocence, false implication, inadequacy of evidence etc. Moreover, it is contended that there is variance in the role of appellant described by the informant in his initial statement and supplementary statement. Moreover, it is contended that several co-accused have been protected by this Court. The investigation is

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complete and therefore, bail is prayed.

4. The State has resisted bail by filing reply affidavit. It is contended that the offence is of serious nature. The appellant took leading part in the entire episode. There are specific allegations that the appellant has used a gun at the time of occurrence and also videographed the incident. Considering the specific allegations, bail is prayed to be rejected.

5. At the instance of report lodged by the informant – respondent no.2, the aforesaid crime came to be registered. The informant has applied under Right to Information Act, for supply of CCTV footage about some Sand Ghats. On 19.05.2021, the informant along with his brother Vikas, while proceeding on a motor cycle, co-accused Sameer Raja made him to talk with one Sagir Mistry on mobile phone. The said Sagir Mistry has abused the informant in filthy language and within short time 5-6 persons including the appellant Mohammad Salim arrived on the spot. The appellant Mohd. Salim by showing gun compelled the informant and his brother to sit in a car and took them to a place called as S.N. Constructions. The complainant and his brother were beaten. The

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informant was made to remove his clothes and appellant videographed the entire affair. Cash amount of Rs.2800/- was also snatched and after beating, both of them left away.

6. Though this Court has granted pre-arrest bail to some of the co-accused, depending upon the role of each accused, their bail application came to be decided. Perusal of the police report indicates that the appellant took active part in the occurrence. He was brother of Salim Mistry, at whose behest the incident occurred. There are specific allegations that the appellant by showing gun, abducted the informant and his brother. Moreover, as per the statement of informant, the appellant has videographed the episode of compelling the informant to remove his clothes. During the incident all of them beated the informant and his brother.

7. The learned Senior Counsel appearing on behalf of the appellant took me through the supplementary statement of the informant. It is submitted that the incident of show of gun has not been disclosed in the said statement. However, it reveals that there is specific mention that the appellant was present and videographed informant by making him to undress. The initial information bears a

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specific reference about appellant's role of use of gun. This is not a stage to consider the inconsistencies occurred in subsequent statement. The offence is of serious nature. The allegations against the appellant are of specific nature. Having regard to these facts, custodial interrogation of appellant is necessary. Hence, Criminal Appeal is dismissed.

JUDGE

Rgd.