

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 85 OF 2022

Yogesh S/o Shahadev Shinde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. M.S. Bhosale, Advocate for the applicant.

Mr. S.B. Narwade, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 11th FEBRUARY, 2022.

PER COURT :

1. Heard.

2. Case of the prosecution is that two unknown persons abducted the informant at 01.00 am in the night. They muffled the face of the informant by a black handkerchief. They put the informant in Indica Car bearing registration No. MH 12 FK 3897. Applicant is the tenant of the informant. Applicant and these two unknown persons were discussing about the amount of Rs.10,00,000/- to be demanded as ransom from the mother of the informant. The informant some how released himself and jumped

out of the car. Informant started screaming and hearing those screams, neighbours came out. Thereafter, applicant and other accused ran away. On these allegations, Crime No. 383/2021 for the offence punishable under Section 364-A, 452, 323, 506, 511 read with Section 34 of the Indian Penal Code came to be registered with Jamkhed Police Station, Dist. Ahmednagar, against the applicant.

3. Shri Bhosale, learned counsel for the applicant submits that there is no evidence of demand. Therefore, this is the only case of abduction. Abduction is punishable with imprisonment for ten years. He submits that two of the accused have been released on bail by this Court.

4. Learned APP Shri Narwade submits that there is evidence to show that the applicant attempted to make demand. However, his attempt failed. He, therefore, submits that the application for bail may not be granted.

5. From the tenor of the First Information Report, it can be seen that demand of ransom is not communicated to any one. First Information Report shows that there was only abduction. When

abduction is in order to commit murder of the person abducted or with a reasonable apprehension that such person may be put to death or hurt or causes hurt or death to such person, in that eventuality, it is punishable with imprisonment for life. In the case at hand, there is no such evidence. From the statement of witnesses and from the allegations made in the First Information Report, it is clear that the applicant and his accomplices were discussing amongst themselves that they would demand Rs.10,00,000/- from the mother of the informant. However, before they could make demand of ransom from the mother of the informant, the informant got himself released from their clutches. In order to attract provisions of Section 364 of the Indian Penal Code, there has to be abduction or kidnapping, there has to be detention and the detention should have been for ransom.

6. In the case of Malleshi vs State of Karnataka (2004) SCC 95, the Honourable Apex Court has held that :-

“To attract the provisions of Section 364A, what is required to be proved is :

(1) that the accused kidnapped or abducted the person;

- (2) kept her under detention after such kidnapping and abduction; and
- (3) that the kidnapping or abduction was for ransom.”

7. In view of this, there is no demand for ransom. There is no evidence that the applicant had demanded ransom from the mother of the informant or from any one. Applicant has no criminal antecedents and he is not likely to commit the same offence again. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.15,000/- (Rs.Fifteen Thousand) with one solvent surety in the like amount in connection with Crime No. 383/2021 registered with Jamkhed Police Station, Dist. Ahmednagar, for the offence punishable under Section 364-A, 452, 323, 506, 511 read with Section 34 of the Indian Penal Code, on condition that he shall not tamper the

prosecution evidence.

iii) Application is disposed of.

Iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during the trial.

(M. G. SEWLIKAR)
Judge

dyb