

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

BAIL APPLICATION NO. 842 OF 2020

Samir Arun Mhatre Applicant
v/s.
The State of Maharashtra Respondent

**WITH
BAIL APPLICATION NO. 1907 OF 2021**

Kalpesh Madhukar Mali Applicant
v/s.
The State of Maharashtra Respondent

Mr. Sunil R. Pandey for the Applicant in BA/842/2020.
Ms. S.S. Kaushik, APP for the State.
Mr. Hemant Kenjalkar and Minal Kamble for the Applicant
in BA/1907/2021.
Mr. Narayan Ghadge, PSI, Mahim Police Station.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 12th APRIL, 2022.**

P. C. :-

. These Applications under section 439 of Cr.PC. are filed by the
aforesaid Applicants who are facing trial in Sessions Case
No.2126/2019 pending on the file of Sessions Court, Mumbai for
offences punishable under sections 170, 341, 364-A, 365, 384, 394,
395, 506 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicants. I have perused the
records and considered the submissions advanced by the learned

counsel for the Applicants and learned APP for the State.

3. The aforesaid crime was registered pursuant to the First Information Report (FIR) lodged by one Harshal Manjarekar. It is the case of the prosecution that on 26/07/2019, while the complainant was proceeding to MHADA Office at Kalanagar, three persons who were following him by a Wagon R Car intercepted his car, pulled out the driver and took him towards Panvel Highway. They demanded Rs.5 crores and threatened to cause his death. They abused and assaulted him, took away his gold ornaments and cash of Rs.2,00,000/-. The complainant agreed to pay Rs.10,00,000/- and requested his driver to arrange the same. Accordingly, his driver arranged the money. The complainant paid Rs.10,00,000/- to the said three persons whereupon they got down from the car at Khargar Highway. The complainant claims that he was scared and not in a proper state of mind and hence, could not lodge the complaint immediately. He lodged the FIR on 31/07/2019. These Applicants were arrested on 02/10/2019 and were allegedly identified by the complainant in an Identification Parade held on 30/10/2019. It is also stated that part of ransom amount has been recovered from these Applicants.

4. It is to be noted that the FIR dated 31/07/2019 was lodged against unknown persons. The complainant had not given the description of the persons who were involved in abducting him. The Applicants were arrested on suspicion on 02/08/2019. The identification parade was held on 31/10/2019. There is inordinate delay in holding the identification parade. The FIR also indicates that only three persons had entered the car whereas the charge sheet has been filed against seven persons. The complainant has not attributed any specific role to these Applicants. The money which is allegedly recovered from the Applicant – Kalpesh Mane was already handed over to the Police by his wife and subsequent discovery under section 27 of Indian Evidence Act, is prima facie doubtful. There is no prima facie material to show that the amount which was recovered from the house of the Applicants forms part of the ransom amount.

5. The Applicants are in custody since August, 2019. The nature of evidence in support of accusations does not justify further detention. Moreover till date, charge has not been framed and considering the large pendency, the trial is not likely to conclude within the reasonable time. Considering the above facts and circumstances, in my considered view, this is a fit case for grant of bail. Hence, the Bail Applications are

allowed on following terms and conditions :-

- (i) The Applicants – Samir Arun Mhatre & Kalpesh Madhukar Mali who are facing trial in Sessions Case No.2126/2019 pending on the file of Sessions Court, Mumbai, are ordered to be released on cash bail in the sum of Rs.25,000/- each for a period of four weeks ;
- (ii) The Applicants shall, within the said period of four weeks, furnish PR bonds in the sum of Rs. 25,000/- each with one or more solvent sureties in the like amount.
- (iii) The Applicants shall report to Mahim Police Station, Mumbai on 1st Monday of every month between 11.00 a.m. to 02.00 p.m. until further orders;
- (iv) The Applicants shall not interfere with the witnesses and/or shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The Applicants shall keep the Trial Court informed of their current address and mobile contact number and/or change

of residence or mobile details, if any, from time to time.

- (vi) The Applicants shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

6. Bail Applications stand disposed of in above terms.

PREETI
H
JAYANI

Digitally signed
by PREETI H
JAYANI
Date: 2022.04.18
15:11:13 +0530

(SMT. ANUJA PRABHUDESSAI, J.)