

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1620 OF 2022

Samarraj Nayak Prasad	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Vinod Kashid for the Applicant.
Smt.A.A. Takalkar, APP for the State.
API Sandip Patil, Nerul Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 23RD AUGUST, 2022.

P.C.

1] The Applicant came to be arrested on 30.12.2020 in CR No.372/2020 registered with Nerul Police Station for the offences punishable under Section 364A, 323, 324, 143, 144, 149 read with 34 of the Indian Penal Code.

On completion of investigation charge-sheet has been filed.
Applicant is charge-sheeted as Accused No.3.

3] Heard learned counsel for the parties and with their assistance I have perused the material compiled in the charge-sheet.

4] The charge-sheet accuse the Applicant and other accused persons of kidnapping one Karajsingh Kalasingh by hatching a

conspiracy and of assaulting him. The Applicant who is arraigned as Accused No.3 is attributed the role assaulting him by fist-blows and by wooden stick, plastic stick collectively alongwith other accused.

It is alleged that for his release a sum of Rs.5 Lakh was demanded from the complainant i.e. his wife and a threat was given that if the amount is not paid, he would be eliminated. Accused No.1 has also transferred a sum of Rs.16,000/- from the account of complainant to his own account. Admittedly, no amount is received by the present Applicant.

4] The statement of the victim came to be recorded on 31.12.2020 after he was rescued on 29.12.2020 and from his statement it can be seen that he got acquainted with Vishwas @ Vivek Gholap and Raj Rathod. They had induced young boys to part with some money for the purpose of engaging their services on a ship. A deal was struck between the Applicant and Vishwas Gholap and several boys reached Tutikorin, where the Applicant was also present. The Applicant was assured commission, depending upon the engagement of the Boys. Agreements were executed with every individual person, which included a boy named Omkar. However, despite the amount being collected, since the ship left the shore, the boys who had paid amount of Rs.2 Lakh felt cheated and the complainant state that he was insisting that the amount shall be returned to the boys, but without refund and without returning the money, he returned to Mumbai.

The victim gave a version that he was very much interested in repayment of the amount to the investors, but it is alleged that, Vivek who had arranged for their journey, on the pretext of he had incurred huge expenses for their stay at Tutikorin, refused to return back the amount.

5] The complainant then refer to incident dated 27.12.2020 when he was kidnapped by some persons, when he went to drop his daughter for tuition. The details are narrated by him in his statement and it is alleged that he was assaulted and when the reason was asked, one of the accused Omkar demanded a sum of Rs.10 Lakhs. The Applicant knew Omkar, as he was one, who was present at Tutikorin. He came to be released on 30.12.2020.

His medical examination was conducted on 29.12.2020 and as per medical report, there were multiple contusion on back and lower back, contusions on right and left arm and forearm as well as injury to the head and contusion on both legs and thigh region.

6] Considering the nature of incident faced by the Applicant and accordingly, the information was given by the victim himself that he had promised employment to certain persons on the ship, but the said promise was not fulfilled, prima facie it appears that the boys who were cheated, hatched a conspiracy and accordingly kidnapped the victim.

In any case no ransom was paid. The amount of Rs.16,000/- has not credited in the account of Applicant. The accusations against the present Applicant have been crystalized in the form of charge-sheet.

Considering the age of the Applicant as 24 years and his incarceration since December, 2020 with no apprehension that he will not be available for trial and having no antecedents to his credit, he deserve to be released on bail.

7] The observations made above are prima facie in nature and limited for the purpose of determination of the present Application and

the learned Judge trying the Applicant for the offences, with which he is charged, shall not in any manner be influenced by the above order.

Hence, the following order :

ORDER

- (a) Application is allowed.
- (b) Applicant – Samarraaj Nayak Prasad shall be released on bail in connection with C.R.No.372 of 2020 registered at Nerul Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

The Applicant shall be released on cash bail of Rs.25,000/- for the period of four weeks in lieu of the sureties. During the said period the applicant shall arrange for the sureties.

- (c) The applicant shall report to the concerned Police Station on every Monday between 11.00 a.m. to 12.00 noon till framing of charge.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

- (e) The Applicant shall regularly attend trial, on every date, unless he is exempted.

[BHARATI DANGRE, J]