

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL BAIL APPLICATION NO. 2791 OF 2022**

Pratik Jayesh Yewale ...Applicant  
Versus  
The State of Maharashtra ...Respondent

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Mr. Aniket Nikam a/w Mr. Piyush Toshnival, Advocate for the Applicant.

Mr. M.G. Patil, APP for the Respondent – State.

**CORAM : PRAKASH D. NAIK, J.**

**DATE : 20<sup>th</sup> OCTOBER, 2022.**

**P.C.**

1. The applicant is seeking bail in C.R. No.288 of 2019 registered with Hinjewadi Police Station, Pune for offence punishable under Sections 364(A), 365 of Indian Penal Code (for short 'IPC'). Subsequently Section 386, 506(2) r/w Section 34 were added. The applicant was arrested on 30<sup>th</sup> July, 2019.

2. The case of the prosecution is that on 13<sup>th</sup> February, 2019 the mother-in-law and son of the first informant were at home. His wife returned home at about 6:30 p.m. At that time their son Varad was not in the house. The complainant, his wife and mother-in-law went for a movie and returned home at about 10:15 p.m. They gave call to their son Varad on his cellphone. He did not respond. At about 11:30 p.m. the wife of first informant again gave a call to Varad and

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spoke to him and asked him what time he would return home. Varad told her that he would be home within 10 to 15 minutes. At about 1:20 a.m. the first informant received a call on cellphone from his son Varad and he was informed by Varad that he has been kidnapped. Some unknown person spoke to first informant and demanded the amount of Rs.20,00,000/- to release Varad. The first informant approached the Police and lodged the First Information Report (for short 'FIR') on 14<sup>th</sup> February, 2019 against unknown person. The son of the first informant was aged around 22 years. The extortion amount was reduced to Rs.10,00,000/-. The victim was taken to various places. The first informant informed the accused that he would comply their demand. Noticing that the complainant was accompanied by some persons, the accused managed to flee from the place determined by them for collecting the amount and releasing the victim. The first informant and Police took custody of the victim. Statement of victim Varad was recorded on 15<sup>th</sup> February, 2019. He narrated the incident of kidnapping. According to him three persons approached him on 13<sup>th</sup> February, 2019 at about 10:40 p.m. One of them was armed with sickle. He was threatened. He was taken to Bavdhan highway. The accused demanded money from him. One of them pointed out pistol at him. He was threatened of dire consequences. As per the instructions of

the accused, Varad gave calls to his friends and told them that he has met with an accident and need money. His friends transferred money into his account. He received a call from his mother and told her that he is at Varje. He was made to withdraw amount on his account. Thereafter, he informed his mother that he has been kidnapped and accused demanded money. He was taken to various places. On the next day the accused were informed that arrangement of money is made. The victim was taken to a place for collection of money and noticing that his father is accompanied by Policemen the accused ran away from the spot.

3. The applicant had preferred an application for bail before the Court of Sessions. The said application was rejected by order dated 11<sup>th</sup> August, 2022.

4. Learned Advocate for the applicant submitted that there is no evidence to connect the applicant with the crime. He is in custody from the date of arrest. Charge-sheet is filed. The FIR was lodged against unknown persons. The applicant is not identified by victim or any other witness. The Sessions Court has rejected application for bail without appreciating that there is no incriminating evidence against applicant.

5. Learned APP submitted that several cases are registered against the applicant. The offences are relating to extortion and dacoity. The present offence is of serious nature. The weapons used in the crime are recovered from the co-accused. The victim has showed involvement of accused in kidnapping. Investigation revealed involvement of applicant. The co-accused were acting on instructions of applicant. The applicant was involved in a case registered vide C.R. No.59 of 2019, wherein provisions of MCOC Act were involved.

6. The prosecution is relying on the memorandum statement of the co-accused which is not admissible in evidence. The applicant is not identified as one of the person who kidnapped the victim boy or demanded the amount. Although there are several cases registered against the applicant in the past considering the nature of evidence against the applicant in the present case, further detention of the applicant is not necessary. Although the applicant was arrested in C.R. No.59 of 2019 registered at Paud Police Station in respect to offence punishable under Section 395 of IPC and under the provision of MCOC Act, he was granted bail by the Special Judge under MCOC Act, Pune. While granting bail in that case, it was observed that, it was imperative on the part of prosecution to establish *prima facie*

some nexus between the past crimes at the discredit of the applicant and the said crime. The statement of victim boy was recorded on 15<sup>th</sup> February, 2019. He had referred to involvement of five persons. Subsequent statement of Varad was recorded on 30<sup>th</sup> August, 2019. Three accused, namely, Manoj Jori, Pravin Bhalerao and Gangadhar Karve were arrested. They were identified by Varad. The prosecution is relying on memorandum statement of co-accused to show involvement of applicant. Such statement are not admissible in evidence. Applicant was arrested on 30<sup>th</sup> July, 2019. Permission was sought from Court to hold test identification parade of applicant which was granted on 7<sup>th</sup> August, 2019. However, it appears no parade was held. There is no incriminating recovery from applicant. He is in custody from 30<sup>th</sup> July, 2019.

7. Considering the aforesaid circumstances, bail can be granted to the applicant.

### **ORDER**

- i. Criminal Bail Application No.2791 of 2022 is allowed.
- ii. The applicant is directed to be released on bail in connection with C.R. No. 288 of 2019 registered with Hinjewadi Police Station, Dist. Pune on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- iii. The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- iv. The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 a.m. for a period of six months and thereafter, once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- v. Application stands disposed of accordingly.

**[PRAKASH D. NAIK, J.]**