

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

CRIMINAL REVISION APPLICATION NO.146 OF 2023

Siddharth Parshuram BhureApplicant
Versus
The State of Maharashtra Respondent

Mr. Vaibhav Y. Kulkarni, Advocate for the Applicant.
Mr. Arfan Sait, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 05th OCTOBER, 2023

P.C. :

1. The Applicant is the original accused No.4 in Sessions Case No.772/2019 before the Sessions Judge, Pune. The Applicant is challenging the order dated 20.1.2023 passed by the trial Court rejecting his application for discharge. The impugned order is passed by the Additional Sessions Judge-14, Pune on 20.1.2023.

2. The prosecution case is in respect of abduction of one Yagnesh Tilva and extracting ransom amount from his friend and brother. The FIR is lodged by the wife of the

victim vide C.R. No.626/2019 under Sections 363, 364-A, 384, 385 read with 34 of IPC. The Applicant is facing those charges before the trial Court and, therefore, he has filed discharge application which was rejected.

3. Heard Mr. Vaibhav Kulkarni, learned counsel for the Applicant and Mr. Arfan Sait, learned APP for the State.

4. Learned counsel for the Applicant submitted that the prosecution story is false. The accused were the front-line investors. The victim and the accused used to regularly go on different tours. The incident in question was one of their friendly tour to Jalgaon. There was no question of abduction of the victim. He submitted that the money, which was transferred, was in relation to their regular business transaction. There was a delay of about 18 hours in filing the complaint. The Applicant is innocent. He was described as a driver of the vehicle but the victim has not said anything, in particular, against the present Applicant.

5. Learned APP opposed these submissions. He

invited my attention to various statements in the charge-sheet. He relied on the bank statement of the concerned witnesses showing transfer of money in the account of the main accused Dilip Avasarmol. The entries support the case of the prosecution.

6. Learned APP further submitted that the victim's story is corroborated by the statements of his friend, his brother and his wife. There are CDR records. He also submitted that the report of Jalgaon Police shows that four accused were found with the victim and all of them were brought to Pune. Therefore, there is sufficient material against the present Applicant.

7. I have considered these submissions. The FIR is lodged by Swati. She is wife of the victim Yadnesh Tilwa. The FIR is lodged on 14.5.2019 at 5:24 p.m. She has stated in her FIR that on 13.5.2019, at around 8:00 p.m., she had accompanied the victim when they had gone to a clinic of a doctor for her husband's treatment. After sometime her husband told her that his friend and one Kishor Sawant were

waiting for him and, therefore, she should go back home. He told her that he would come home after meeting Kishor Sawant. The first informant went home and went to sleep. For some time, she could not contact the victim. His phone was switched off. At about 1:12 a.m., the victim called her and told her that he was with Dilip Avasarmal, he was having dinner and that he would reach late. On hearing this, the first informant went to sleep. In the early morning at 5:00 a.m., she found that her husband had not returned home. She called her brother-in-law but even that phone number was switched off. At about 7:00 a.m. her brother-in-law Vishal came to her house and informed her that the victim was abducted in a Toyota car bearing No.MH-12-MB-0749 by 3-4 persons. At about 8:00 a.m., the victim called on the telephone of the informant's brother-in-law i.e. brother of the victim. The victim informed that the abductors were demanding Rs.10 Lakhs and requested to make the payment on a particular bank account. He also told them not to inform this fact to the police. Kishor Sawant was trying to

mediate and was telling them to make payment of ransom.

On this basis, the FIR is lodged.

8. The important statement is that of the victim himself. It was recorded on 15.5.2019 i.e. immediately after he was brought to Pimpri. He has described the incident. He has stated that at about 11:00 p.m. on 13.5.2019 four persons including Dilip Aavasarmal and his brother Rahul Avasarmal abducted him in a car. Rahul told the driver to take the car towards Mumbai. He was assaulted in the car itself. His cash was removed. He was forced to make a phone call to his wife and he was asked to tell her that he was with his friends and they were having dinner. Then they took the mobile phone of his brother which he was carrying and sent a message to Sachin Jaid and told him to transfer Rs.2 Lakhs. Then a phone call was made to the victim's brother. He was also asked to transfer Rs.50,000/-. His ATM card was used and Rs.30,000/- were removed from an ATM machine. His credit card was used and Rs.88,000/- were transferred forcibly. Thus, in total, they had obtained

Rs.3,94,000/-. After that Rahul Avasarmal left others and the victim was taken to Jalgaon. The victim agreed to make the payment of the ransom amount and, therefore, they showed willingness to take him back to Pune. While they were in a hotel at Jalgaon, the police reached there and took all of them in custody. His statement is sufficiently corroborated by Sachin Jaid. He has stated about the transfer of Rs.2 Lakhs. The victim's brother Vishal has also supported the same case. He was with the victim at about 11:00 p.m. around the time the victim was abducted. He was inside a hotel. When he came out, he saw that there was a crowd gathered outside the hotel. They informed him that one person was abducted by 3 to 4 persons in a car. Thus, entire incident is narrated by this witness. The bank statement also shows that the aforesaid amount was transferred in the account of Dilip Avasarmal at about 12:30 a.m. on 14.5.2019 i.e. an amount of Rs.2 Lakhs; and an amount of Rs.49,700/- at about 5:30 a.m. The bank statement is also corroborated by Sachin and Vishal's bank

statements. Thus in the night itself part of the ransom amount was taken.

9. The injury certificate of the victim shows that he had suffered contusion over left forearm, contusion around left eye, contusion over left arm and multiple nail scratches around neck. Therefore, the fact that he was assaulted was also corroborated by this medical certificate.

10. The more important aspect of this matter is that the Applicant was found with other accused and the victim. This is reflected in the report sent by Station House Officer of Jalgaon police station to Senior Inspector of Police, Pimpri Chinchwad police station on 15.5.2019. It is mentioned in the report that four accused, including the present Applicant, were found near a hotel near Jalgaon railway station. The same vehicle was found with them.

11. All this material shows that there is sufficiently strong material against the present applicant. There is no force in the submission that the FIR was lodged belatedly.

12. Considering all these aspects, it is quite clear that there is strong material against the Applicant for framing of the charges. Therefore, he cannot be discharged and, therefore, no relief can be granted in this Revision Application. The Revision Application is dismissed.

PRADIPKUMAR
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