

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2578 OF 2022

Jignesh @ Wasim Jalil Khan

... Applicant

V/s.

State of Maharashtra

... Respondent

.....
Mr. Amrish R. Salunke i/b. Ms. Isha Saglani, Advocate for Applicant.
Mr. A. A. Palkar, APP for Respondent-State.
PSI- Sudhir Korgaonkar, Kasturbha Marg Police Station present.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 3 OCTOBER, 2023

P C:-

1. By this Application, Applicant is seeking bail in C.R.No. 338 of 2022 registered with Kasturbha Marg Police Station, Mumbai for the offence punishable under Section 395 of Indian Penal Code, 1860 (for short "IPC").

2. It the prosecution's case that the complainant is running business of Industrial Workshop at MIDC, Bhosari Pune, in the name and style as "Mahalaxmi Industries". The complainant was in need of second hand C.N.C. tool grinding machine for that purpose he used to visit Mumbai. A person namely Venky introduced the complainant with lady namely Urmila Maurya for purchase of grinding machine. The said lady contacted to Applicant on his

number and he told to the complainant that he is having second hand grinding machine for sale and its value is near about 25 to 30 lakhs. It is alleged that Applicant called the complainant at Borivali, along with token amount of Rs.1,00,000/- for sale transaction of grinding machine.

3. Accordingly, on 17.02.2022 complainant and his friend Deepak Mahadik came at Savitribai Phule Hospital, Borivali (W) in their car, as instructed by Applicant. At that time, Applicant came on that spot with one person. Applicant told them that the said person accompanied with him is his partner and his name is Ankit. Then Applicant told the complainant to take his vehicle at some distance. He asked the complainant to halt the car at lonely space. Then Applicant asked complainant as to whether, he had brought token amount of Rs.1 lakh for which complainant replied positively. Thereafter four more persons arrived on that spot in Innova Car. Applicant, Ankit and the persons came in Innova Car by giving threatening to complainant for not to chase their case. They took an amount of Rs.1,00,000/- from complainant forcefully and ran away in the said innova car. The complainant noted number of said innova car. On the basis of complainant's complaint, a offence was registered against the Applicant and other co-accused.

4. It is the contention of learned Counsel for Applicant that, Applicant has been falsely implicated in this case. There is delay in lodging FIR. No weapon was used by the Applicant and co-accused while taking amount from the complainant. Applicant is behind the bar more than 1½ year. Investigation is completed and charge-sheet has been filed. Hence, requested to allow the Application.

5. Learned APP submitted that Applicant had robbed the complainant. The amount of Rs.50,000/- is recovered at the instance of Applicant. There is *prima facie* case against the Applicant. Hence, requested to reject the Application.

6. I have heard both the learned Counsel. Perused the FIR and charge-sheet. Admittedly, there is delay of 40 days in filing FIR. No weapon was used while taking amount from the Complainant. Investigation is completed and charge-sheet has been filed. Applicant is behind bar for more than 1 and 1/2 year.

7. Considering above facts his further detention not required.

8. In view of the above, I pass following Order:

ORDER

- (i) Applicant be enlarged on bail in 338 of 2022 registered with Kasturbha Marg Police Station, Mumbai on executing P. R.Bond in the sum of

Rs.25,000/- with one or two sureties in the like amount.

- (ii) Applicant shall attend the concerned Police Station once in a month i.e. on first Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- (v) The Trial Court shall decide the said case on its own merits, in accordance with law uninfluenced by the observations made in this order.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. All concerned to act on the authenticated copy of this order.

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2023.10.07
17:19:31 +0530

(SHIVKUMAR DIGE, J.)