

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

CRIMINAL BAIL APPLICATION NO.2873 OF 2022

Sunil Subhash Gaikwad ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Satyam Nimbalkar i/b Mr. Abhishek Arote, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

PSI – M. D. Giri, Market Yard Police Station, Pune, is present.

CORAM: REVATI MOHITE DERE, J.

DATE : 19th AUGUST 2023

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant, seeking his enlargement on bail in connection with C.R.No. 203 of 2019, registered with the Market Yard Police Station, Pune, City, for the alleged offences punishable under Sections 363, 364A, 386, 387 r/w 34 of the Indian Penal Code and under Section 3 r/w 25 of the Arms Act.

3. Perused the papers. The first bail application of the applicant was dismissed as withdrawn vide order dated 4th October, 2021. The said order is at Exhibit - 'D' on page 307 of the application. Whilst dismissing the first bail application, the trial of the applicant was however expedited.

4. It is not in dispute that till date charge has not been framed in the said case. The applicant is in custody since November 2019. It is the prosecution case that the complainant's father was abducted by three persons (one of them being the applicant) and that after abducting ransom was demanded. The said ransom was stated to have been paid to four other persons at a different location (not the applicant). It appears that after the ransom amount was paid, the complainant's father was released. According to the prosecution, the complainant's father i.e. victim had identified the applicant in the Test Identification Parade (TIP) held on 11th December 2019.

5. Learned counsel for the applicant submits that the TIP suffers from several infirmities. He submits that the applicant's photograph was published in the newspaper on the day of his arrest i.e. on 19th November 2019. He further submits that the TIP was held contrary to the Criminal Manual and judgments in this regard. He submits that same dummies were used and that even the sequence of the dummies was not changed.

6. There is no recovery of any money at the instance of the applicant. The applicant is in custody since 19th November 2019. There is no prospect of the trial commencing in the immediate near future, having perused the roznama. The applicant has no antecedents.

7. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/- with one or two local solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 1:00 p.m. till the conclusion of the trial;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of

hearing.

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE , J.