

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2929 OF 2022**

1. Manjit Kumar Vijaynath Yadav
2. Dhananjay Shriram Yadav
3. Somprakash Nandlal Yadav
Versus

....Applicants

The State of Maharashtra through Manpada
Police State, District Thane.

...Respondent

Mr. Shantanu Phanse along with Mr. S. S. Bedekar i/b. Mr. Nilesh Navale , Advocate for the Applicant.
Ms. Pallavi Dabholkar, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 24th AUGUST, 2023.

P.C. :

1. By this application, applicants are praying for bail in Crime No.I-3 of 2022 dated 1st January 2022 registered with Manpada Police Station under Sections 365, 364-A, 368 read with 34 of Indian Penal Code, 1860 (for short "IPC").
2. It is prosecution's case that complainant's husband was working in Shipping Company. He used to take money from needy people and provide them job. On 31st December 2022 at about 8.30

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am when complainant, her husband and daughter were present in the house, three unknown persons came to their house and discussed monetary transaction with husband of the complainant ie. Subhashish Banerjee. The said unknown persons started demanding money from Subhashish. Following which all of them along with Subhashish went outside the house of complainant. After sometime, Subhashish came back to the house. At around 9.30 am, he got ready and left with the said unknown persons. After three to four hours, Subhashish did not return home, hence the complainant made phone call to Subhashish from her daughter's mobile phone and enquired about him, to which, the complainant replied that he was safe at Panvel. At around 6.30 p.m., complainant received a phone call from Subhashish. He told her that the said unknown persons were demanding money from him, so she will have to go to Nerul Station with the amount of Rs.5,00,000/-. The complainant stated that she does not have money, therefore, she informed the applicants that she would arrange it on the next day. On 1st January 2022 at around 9.00 a.m, Subhashish made a whatsapp call to complainant's daughter and also sent bank cheque photo and demanded Rs.5,00,000/-. Subhashish said that the said unknown persons were

threatening him that if the complainant failed to pay the demanded amount, they will take him to some unknown place. Thereafter, complainant lodged complaint in police station. On the basis of the complaint, initially police registered offence punishable under Section 365 of Indian Penal Code and subsequently offences under Sections 364A, 368 read with 34 of the IPC were added.

3. It is contention of learned counsel for applicants that applicants have been falsely implicated in the case by the first informant. Sections 364A, 365 and 368 of IPC are applied against applicants without application of mind as ingredients of these Sections are not appearing in the FIR. Complainant's husband had gone to his house when he was with applicants and he had made whatsapp call to his daughter. The allegations leveled against applicants are that they threatened the complainant's husband by putting a knife on his neck but there is no recovery of alleged knife from applicants, nor complainant's husband has suffered any injury in the entire incident.

Learned counsel further submitted that complainant's husband himself admitted that he had taken money from applicants

and promised them that he will give employment to applicant No.2. The complainant's husband and applicant No.1 knows each other much earlier to the incident. Learned counsel further submitted that during the course of investigation, the investigating officer recorded the statement of Raj Nageshwar Yadav, Manager at Royal Inn Lodge. The Manager has stated that he himself allowed the applicants and complainant's husband to stay in one room. As complainant's husband had demanded money from applicants and had promised to give job but he failed to give job and on that basis, applicants were demanding money from complainant's husband but to avoid to pay the amount, false case has been lodged against the applicants. Hence, requested to allow the application as applicants are in jail for more than 1 year and 9 months.

4. Learned APP submits that applicants had taken the husband of complainant with them. They forced complainant to bring the amount and threatened the complainant that if the amount is not given, her husband would be taken to unknown place. If applicants are released on bail, they may influence the prosecution witnesses and they may abscond and trial may be delayed. Hence, requested to dismiss the application.

5. I have heard both learned counsel.

6. Perused F.I.R and chargesheet. The statement husband of the complainant –Subhashish Banerjee is recorded by the police on 3rd January 2023. It is at page 62. In the said statement, he has stated that he knows applicant No.1 and he used to provide job after taking money. In the statement, he stated that applicant No.1 had given documents of three persons to him to provide job and had given an amount of Rs.1,50,000/- each to him. Total amount of Rs.4,50,000/- was transferred by applicant No.1 in his account and in the account of his daughter. He further stated that the said three persons were sent to Srilanka on 29th October 2021 but they tested positive for covid and they were sent back to India. Thereafter, applicant No.1 started demanding money given by these three persons as they did not get the job. From perusal of the statement of Subhashish who had been allegedly abducted by applicants, it appears that there was financial transactions between Subhashish Banerjee and applicants. Though it is the case of prosecution that applicants put knife on the neck of Subhashish when he was abducted from his house, the police has not recovered the said knife though charge-sheet has been filed. Applicants are in jail for more than 1 year and 9 months. Applicants

are disputing about application of Section 364-A and other sections. Investigation is completed.

7. In view of above, I pass following order :

ORDER

- (i) Manjit Kumar Vijaynath Yadav - Applicant No.1, Dhananjay Shriram Yadav - Applicant No.2 and Somprakash Nandlal Yadav -Applicant No.3 be enlarged on bail in Crime No.I-3 of 2022 dated 1st January 2022 registered with Manpada Police Station under Sections 365, 364-A, 368 read with 34 of Indian Penal Code, on executing P.R.Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount.
- (ii) Applicants shall attend the concerned police station once in a month i.e. on first Saturday between 11.00 a.m. to 2.00 p.m. till framing of charge.
- (iii) Applicants shall inform their 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) Applicants shall not tamper with the evidence or attempt

to influence or contact the complainant, witnesses or any person concerned with the case.

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

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

(SHIVKUMAR DIGE, J.)