

Sayali Upasani

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

BAIL APPLICATION NO. 2049 OF 2023

Dharmraj Ambadas Kamble ...Applicant

Vs.

State of Maharashtra ...Respondent

**SAYALI
DEEPAK
UPASANI**

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SAYALI DEEPAK
UPASANI
Date: 2024.02.29
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Mr. K K. Sonawane, for Applicant.

Mrs. G.P. Mulekar, APP for State.

Mr. Suryawanshi D. A. API, Manpada Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 22nd FEBRUARY, 2024.

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) The applicant, who is arraigned in CR No. 590 of 2022, registered with Manpada Police Station, Thane, for the offences punishable under Sections 120B, 201, 364-A and 387 read with Section 34 of the Indian Penal Code, 1860, has preferred this application to enlarge him on bail.

3) Mr. Hemant Mali, the first informant is working in Deluxe Plywood, Manpada Road, Dombivali, a store run by the victim. The victim was taken away by Sanjay Vishwakarma (A1) along with him on the pretext of the discussing a matter. As the victim did not return till evening, the first informant called Navratan, the brother of the victim. During the course of the evening, the brother and the nephew of the victim received calls from a unknown person, who demanded a ransom of Rs.50,00,000/-. They allegedly threatened to kill the victim if the demand for ransom was not met. On the basis of the call data record, the police party conducted a raid and the victim was rescued. Four persons including Sanjay Vishwakarma, the accused No. 1, were apprehended by the police along with the victim on the morning of 4th August, 2022. The applicant was one of those four persons.

4) The learned Counsel for the applicant submitted that the applicant had been falsely roped in on the basis of the concocted version as there were transactions between one of the co-accused and the nephew of the victim. It is not the case that the applicant had either abducted the victim or called any of the relatives of the victim to pay ransom. The applicant has been in

custody since 4th August, 2022. Therefore, the applicant be released on bail.

5) The learned APP resisted the prayer for bail. It was submitted that the applicant was all along with Sanjay, who had made the ransom calls. Therefore, the applicant cannot be released on bail.

6) I have perused the report under Section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it. From the perusal of the statement of the victim, it appears that the victim had known the co-accused Sanjay. Sanjay had allegedly induced victim to accompany him on the pretext that he had to withdraw money from the ATM, and will hand over the same to the victim. Victim was made to board Xylo car bearing No.MH/05/BJ/0556. Thereafter, victim was abducted.

7) From the statement of the victim, the role attributed to the applicant appears to be that of calling one of the friends for arranging the dinner of the accused party. I have also perused the statement of the brother and nephew of the victim. It appears that the person, who had called the brother and nephew of the victim, identified himself as Sanjay. It is relevant to note that the victim had known Sanjay from before. The initial purpose of

abduction as alleged by the victim, was that one of the persons who abducted him was to recover some amount from the nephew of the victim.

8) In the aforesaid view of the matter, prima facie, the role of either abducting the victim or making calls for ransom cannot be attributed to the applicant. Whether the applicant shared the common intention to abduct the victim for the purpose of ransom would be a matter for adjudication at the trial.

9) The applicant has been in custody since, 4th August, 2022. It is unlikely that the trial can be concluded within a reasonable period. There are no antecedents of the applicant.

10) I am, therefore, inclined to exercise the discretion in favour of the applicant.

11) Hence, the following order.

: O R D E R :

(i) The application stands allowed.

(ii) The applicant Dharmraj Ambadas Kamble be released on bail in CR No. 590 of 2022, registered with Manpada Police Station, Thane, for the offences punishable under Sections 120B, 201, 364-A and 387 read with Section 34 of the Indian Penal Code, 1860, on furnishing a

P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at the Manpada Police Station, Thane, on the first Monday of every month between 10.00 am to 12.00 noon for a period of two years or till conclusion of trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial court shall not be influenced by any of the observations made hereinabove.

[N. J. JAMADAR, J.]