

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 496 OF 2024**

Raghunath Tukaram Bhare @ Behare

....Appellant

V/s.

State of Maharashtra and anr.

....Respondents

Ms. Vrunda Surve a/w. Ms. Manisha Salekar, *for the Appellant.*

Ms. Shilpa Gajane-Dhumal, *APP for Respondent-State.*

Ms. Meghna Gowalani, **Advocate appointed for Respondent No.2.**

Mr. Salman Khatib, PSI Murbad Police Station present.

CORAM : SANDEEP V. MARNE, J.

Dated : 10 June 2024.

P.C. :

1. This is an Appeal filed under the provisions of Section 14A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging the order dated 20 October 2023 passed by the Additional Sessions Judge, Kalyan rejecting the application filed by the Appellant for bail.

2. The prosecution story as reflected in the FIR is that the Complainant/Respondent No.2 is a Medical Practitioner and carries on his profession alongwith his wife and elder brother at Tanmay Maternity

Hospital and Tanmay Sonography Centre at Murbad market. It is alleged that on 21 October 2022 when complainant was returning from the Hospital at 8.30 p.m., one unknown person requested for lift and accordingly the complainant offered lift to the said unknown person. The said unknown person took the complainant to one car and three unknown persons apprehended the Complainant and abducted him. The said unknown persons initially demanded amount of Rs.2 crores stating that they had kidnapped the Complainant and later reduced it to Rs. 1 Crore. The accused thereafter telephonically informed Complainant's wife about kidnapping of the Complainant and finally demanded reduced ransom amount of Rs.30 lakhs. The prosecution story is that the Complainant's wife arranged the ransom amount of Rs.30 lakhs and handed over the same to the accused who thereafter released the complainant. Accordingly, FIR was registered on 16 November 2022.

3. During the course of investigations, police apparently discovered role of 8 accused persons. Six accused, including the Appellant, came to be arrested. The Appellant has been arrested on 21 April 2023. Two accused are reportedly absconding. After the names of the accused were revealed during the course of investigation, a supplementary statement of the Complainant was recorded on 16 May 2023 in which the Complainant apparently named the Appellant with regard to his involvement in the crime.

4. I have heard Ms. Surve, the learned counsel appearing for the Appellant. She would submit that out of the total six accused who are arrested, five accused are already released on bail. She would further submit

that though the Appellant is named in the supplementary statement dated 16 May 2023, no particular role is ascribed in the said statement to the Appellant. She would further invite my attention to the '*Antiretroviral Treatment Record*' in respect of the Appellant in support of her contention that the Appellant has been detected HIV Positive and is under treatment. She would further submit that the Appellant is in custody for a fairly long period of time and that there is no possibility of the trial being concluded immediately in the near future. She would therefore request that the Appellant be released on bail.

5. Despite issuance of notice to the Complainant/ Respondent No.2, since no representation was made on his behalf, by order dated 25 April 2024 this Court requested Advocate Ms. Meghna Gowalani to appear on behalf of Respondent No.2. Accordingly, Ms. Gowalani has provided necessary assistance to this Court by canvassing submissions on behalf of the Complainant/Respondent No.2. I have also heard the learned APP. Both learned Applicant and Ms. Gowalani would submit that the Appellant has received Rs.1,00,000/- out of the ransom amount. Additionally, the motorcycle registered in the name of the Appellant was involved in the crime. My attention is invited to admissions given by the co-accused about receipt of amount of Rs.1,00,000/- by Appellant, as well as the Appellant's own admission in the statement about use of motorcycle registered in his name for commission of the crime.

6. I have considered the submissions canvassed by the learned counsel appearing for the parties. The investigations into the crime are

already completed and chargesheet has been filed in respect of the offences punishable under Sections 364-A, 364, 365, 120B, 395, 398, 387, 341, 342, 323, 504, 506 r/w. Section 34 of the Indian Penal Code and Sections 3(2)(vi-a) of the SCST Act and under Section 37(1)(A) and 135 of the Maharashtra Police Act. Undoubtedly, the maximum punishment for offence punishable under Section 395 is imprisonment with life. However, at the same time, it is seen that in the FIR, Appellant was not named. It appears that during the course of investigations, the police came up with the name of the Appellant by ascribing him the role of receipt of ransom amount of Rs.1,00,000/-, as well as use of his motorcycle for commission of the crime. Though in the supplementary statement dated 16 June 2023, the Appellant has been named, the Complainant has not ascribed any particular role to him. The Appellant is in custody for a fairly long time since 21 April 2023.

7. I have gone through the orders passed by the Additional Sessions Judge, Kalyan granting bail to the other five accused on various dates from January 2024 onwards. It is seen that the role ascribed to the said five co-accused is of much grave nature than the one that is ascribed to the Appellant. It is also seen that the Appellant is detected HIV Positive and needs medical treatment. The trial is likely to take some time. In my view, therefore this is a fit case for enlargement of the Appellant on bail.

8. I accordingly proceed to pass the following order:

- (i) Appeal is allowed. Order dated 20 October 2023 passed by the Additional Sessions Judge, Kalyan is set aside.
- (ii) Appellant-Raghunath Tukaram Bhare @ Behare be released on bail in connection with Crime No. I-337/2022 registered at Murbad Police Station for the offences punishable under Sections 364-A, 364, 365, 120B, 395, 398, 387, 341, 342, 323, 504, 506 r/w. Section 34 of the Indian Penal Code and Sections 3(2)(vi-a) of the SCST Act and under Section 37(1)(A) and 135 of the Maharashtra Police Act on his furnishing P.R. Bond in the sum of Rs.1,00,000/- (Rs. One Lakh only) with one or two solvent sureties in the like amount subject to following conditions:
 - (a) Applicant shall furnish identity and address proof of himself and of his two blood relatives while furnishing sureties.
 - (b) Applicant shall attend Trial Court regularly unless exempted from personal appearance.
 - (c) Applicant shall not pressurize the informant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.
 - (d) The Appellant shall not leave the country without the permission of the Trial Court.
 - (e) The Appellant shall surrender his passport to the Investigation Officer, if the Appellant does not have a

passport, he shall file an Affidavit to that effect before the Trial Court within a period of two weeks of his release.

9. With the above directions, the Appeal is **allowed and disposed of**.

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[SANDEEP V. MARNE, J.]