

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.3253 OF 2024**

|                                    |               |
|------------------------------------|---------------|
| Sanjay Dashrath Mhatre and Another | ...Applicants |
| vs.                                |               |
| The State of Maharashtra           | ...Respondent |

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PAREKAR

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Mr. Raviraj Paramane, for the Applicant.  
Mr. A.A. Naik, APP, for the Respondent/State.

**CORAM : N. J. JAMADAR, J.**  
**DATE : AUGUST 14, 2024**

**P.C.:**

1. Heard the learned counsel for the parties.
2. The applicant who is arraigned in C.R. No. 56 of 2023 registered with Nijampura police station, Bhiwandi for the offences punishable under sections 364(A), 341, 342, 384, 385, 387, 170, 171, 420, 467, 468, 469, 471, 201, 120-B, 323, 504 and 506 read with 34 of Indian Penal Code, 1860 seeks to be enlarged on bail.
3. At the outset, the learned counsel for the applicants submits that the co-accused Nikhil Joshi, Sagar Chinchole, Imran Shaikh and Nilesh Patil have been released on bail by this Court by orders dated 3<sup>rd</sup> April, 2024 and 2<sup>nd</sup> May, 2024. Thus, the applicants are entitled to be released on bail as the role attributed to the applicants is identical to that of the co-accused who have been released on bail.
4. The learned APP fairly submitted that the principle of parity

may apply.

5. While releasing the co-accused Nilesh Joshi and Sagar Chinchole on bail, this Court, inter alia, observed as under:-

10] I have carefully perused the material on record and considered submissions canvassed across the bar. The fate of the prosecution case apparently hinges on the identification of the persons who had allegedly abducted the first informant. The first informant alleged that he was forced to board the 'Ertiga' car. The identity of the 'Ertiga' car would also assume significance.

11] I have perused statement under section 164 and the FIR. The first informant clearly states that he did not note the number of the 'Ertiga' car. Prima facie, the identity of the car in which the applicant was allegedly abducted in is in the arena of uncertainty. Secondly, the identity of the applicants as the persons who abducted the first informant is sought to be substantiated on the basis of identification in test identification parade. The second circumstance pressed into service is the recovery of the cash amount of Rs. 7,000/- and Rs. 4,500/- from the applicants Sagar Chincholi (accused No. 4) and Nikhil Joshi (accused No. 3), respectively.

12] I find substance in the submissions on behalf of the applicants that in the absence of any other evidence to connect the applicants with the alleged offences, the circumstance of identification in the test identification parade alone, may not be of decisive significance. Likewise, the recovery of the amounts of Rs. 7,000/- and Rs. 4,500/- pursuant to the disclosure statement made by the applicants by its very nature appears to be not sturdy enough to bear the weight of accusation. The statement of the owner of the car which was allegedly hired by Nikhil Joshi (accused No. 3) is compatible with the innocence of the applicant Nikhil as well.

13] In the aforesaid view of the matter, the pivotal question as to whether the applicants were the persons who abducted the first informant would be a matter for evidence and trial. Investigation seems to be complete. Charge-sheet has been lodged. The applicants have been in custody for more than a year. Further detention of the applicants, therefore,

does not seem warranted. The applicants also appear to have roots in society. Possibility of tampering with evidence and fleeing away from justice appears remote.

6. The aforesaid reasons, which weighed this Court while releasing the co-accused on bail, especially in the light of the fact that the fate of the prosecution hinges upon the identity of the persons who allegedly abducted the first informant, apply with equal force to the claim of the applicants.

Hence, the following order.

#### **ORDER**

1] The application stands allowed.

2] The applicants be released on bail in C.R. No.56 of 2023 registered with Nijampura police station, Bhiwandi on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicants shall mark their presence at Nijampura police station, Bhiwandi on the first Monday of every alternate month between 11 am to 1 pm till the conclusion of the trial.

4] The applicants shall not tamper with the prosecution evidence or give threat or inducement to the first informant, any of the prosecution witnesses or any person acquainted

with the facts of the case.

5] The applicants shall furnish their contact numbers and residential addresses to the investigating officer and shall keep him updated, in case there is any change.

6] The applicants shall regularly attend the proceedings before the jurisdictional Court.

7] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the 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.

Application disposed.

**(N. J. JAMADAR, J.)**