



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.197 OF 2024
(Ajay s/o Nandkumar Nagpure Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.S. Mardikar, Sr. Advocate a/b Mr. D.P Singh, Advocate for the applicant.
Mr. U.R. Phasate, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 25, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 20/10/2023 in connection with Crime No.912/2023 registered with Police Station Buldhana City, District Buldhana for the offence punishable under Sections 395, 384, 385, 364-A, 342, 323, 506, 120-B of the Indian Penal Code and Sections 4/25 of the Arms Act, 1959 and Section 65 of the Information Technology Act, 2000.

2. The accusation against the present applicant is on the basis of report lodged by Dr. Saurabh Ramesh Sancheti alleging that on 12/10/2023 when he was at his home he received a phone call of one unknown person who gave a reference of the present applicant and disclosed to him that one Cancer patient at his house and requested him to come to his house and examine the said patient. Therefore, he proceeded along with the said person and they took him at one place in one house

wherein 7 to 8 persons aged about 20 to 25 years were present. Said persons assaulted him by means of fist and kick blows. His mobile phone also snatched and the amount of Rs.10,000/- was also snatched. He was disrobed by the said persons and obtained the video shoot. Thereafter he was threatened that he has to pay Rs.20,00,000/- otherwise his video would be viral. He was again taken on the Aactiva vehicle of the present applicant and he has paid Rs.8,50,000/- to the person who was along with the present applicant. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Senior Counsel for the applicant submitted that as far as the present applicant is concerned his involvement is not in the initial incident of the assault. As per the allegations when the first incident was occurred and the informant came out of the house along with the other unknown persons, present applicant was seen by him and he approached to him and on that present applicant asked him to pay Rs.20,00,000/-. He submitted that this fact is not substantiated by other material of the investigation. He invited my attention towards the WhatsApp chat between the informant and the co-accused Dikshant Navghare and submitted that from the said WhatsApp chat it reveals that there was physical relationship between these two persons and as this relationship was revealed to his family members, therefore, this false FIR is lodged against the present

applicant. He also invited my attention towards the information collected which shows that as per the prosecution case there was a communication between the present applicant and other co-accused through the mobile phone No.7272989809 which according to the prosecution belongs to the co-accused Dikshant Navghare however, the Truecaller information shows that this number belongs to Santosh Ramesh Sharma and no investigation is carried out by the Investigating Officer to that aspect. He submitted that the statements of the witnesses though shows the involvement of the present applicant but limited role is attributed to him. Now, investigation is completed, charge-sheet is filed, further incarceration of the present applicant is not required. Other co-accused are already released on bail. In view of that, he be released on bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that the applicant is not only involved in the crime as far as the communication between the co-accused and the present applicant but there is a specific role attributed to the present applicant. As per the allegation, it was the present applicant who is the mastermind of the said crime. Present applicant has insisted the informant to pay the amount of Rs.20.00 lakhs and assured him that if he pays the amount of Rs.20.00 lakhs then the video would not be viral. Not only this, present applicant accompanied the informant to obtain the amount from his friend and thereafter the

informant has paid Rs.8.00 lakhs to the person who was along with the present applicant. He submitted that the CDR reports collected during the investigation also shows that there was continuous call between the present applicant and the other co-accused. He invited my attention towards the calls between the phone numbers 7272989809 and 7972086539. The second number belongs to the present applicant and as per the prosecution the first number i.e. 7272989809 belongs to the co-accused Dikshant Navghare. Thus, he submitted that since inception, the involvement of the present applicant is revealed. His involvement in obtaining the amount and also in the offence of extortion is revealed. Though the investigation is completed and charge-sheet is filed. Considering the *prima facie* role played by the present applicant, his application for bail deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers. From the recitals of the FIR and the statements of the various witnesses, it reveals that it was the present applicant who insisted the informant to pay the amount of Rs.20 lakhs and also assured him that if he pays the amount then his video would not be viral, and therefore, the informant has paid the amount of Rs.8.00 lakhs. It further reveals from the investigation papers that present applicant accompanied the informant as well as other co-accused to obtain the amount and informant after obtaining the amount paid

the amount of Rs.8.00 lakhs to the person who was along with the present applicant. As far as the telephonic communication prior to the incident is concerned and the prosecution relied upon the CDR reports, as per the prosecution the mobile number 7272989809 belongs to the co-accused Dikshant Navghare whereas Truecaller details shows that this number belongs to one Santosh Ramesh Sharma. Therefore, at this stage, this CDR report creates the doubt regarding the communication. As far as the oral statements are concerned admittedly, the *prima facie* case is made out against the present applicant. However, considering the considerations for grant of bail under Section 439, the gravity of the offence and the proportion of the punishment which is provided for the offences alleged are to be taken into consideration. For the offences punishable under Sections 395 and 385 punishment upto the 10 years is provided. Now, investigation is completed, charge-sheet is filed. As far as the apprehension of the Prosecution that the applicant would tamper the prosecution evidence which can be taken care of by imposing certain conditions. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Ajay s/o Nandkumar Nagpure in connection with Crime No.912/2023 registered with Police Station Buldhana City, District Buldhana for the

offence punishable under Sections 395, 384, 385, 364-A, 342, 323, 506, 120-B of the Indian Penal Code and Sections 4/25 of the Arms Act, 1959 and Section 65 of the Information Technology Act, 2000, be released on bail on his executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall attend the concerned police station once in a month i.e. first day of every month and the Investigating Officer shall record his presence.

(iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

(v) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.

6. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)