

Ajay

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

CRIMINAL BAIL APPLICATION NO. 486 OF 2025

Dattatray Namdeo Pawar

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Rajiv Patil, Senior Advocate a/w. Mr. Vishal Kolekar, Mr. Harsharaj Jagtap, Kiran Jadhav and Mr. Shubham Kadam, Advocates i/by Randhir Ankush Kale for Applicant.
- Mr. Sukanta A. Karmakar, APP for Respondent – State.
- Ms. L.K. Thorat, PSI – Ambarnath Police Station, Thane City present.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 14, 2025.

P.C.:

1. Heard Mr. Patil, learned Senior Advocate for Applicant and Mr. Karmakar, learned APP for Respondent – State.

2. Applicant has been indicted as an accused alongwith 4 other Accused persons in the FIR. After filing of charge-sheet 11 persons have been arraigned as Accused. Applicant before me is arraigned as Accused No.2 in the charge-sheet. Mr. Patil would persuade the Court to consider the material on record for his indictment. He would submit that one of the original 5 Accused who is now arraigned as Accused No.1 in the charge-sheet is a co-worker of the Applicant. He would state that Accused No.1 was working as a Fireman in the Fire-brigade

Department at Mulund Fire Station. Applicant is also a Fireman stationed at Kurla Fire Station. Mr. Patil would submit that both of them reside in separate places. Crime in question pertains to kidnapping of the victim who was 21 years old.

3. He would submit that after the commission of the crime and after the said victim was let off, indictment of the Applicant has happened on the basis of the phone number of the Applicant being traced in the mobile phone of Accused No.1.

4. In so far as the aforesaid submissions are concerned, Prosecution will have to show *prima facie* incriminating material of the nexus of Applicant (Accused No.2) with Accused No.1 in question on the basis of CDR record with the transcripts in question otherwise merely stating that a phone call was made or received before or after the crime will have to be considered on the strength of the said evidence itself.

5. The third ground Mr. Patil has stated is that according to prosecution Applicant resides in the same building as that of the victim in the present crime and is therefore complicit in the crime. Prosecution will have to show appropriate *prima facie* material which is incriminating for the reasons for indicting the Applicant on this ground also.

6. I am informed by Mr. Karmakar that Mr. Haldankar, learned APP appears in the present Bail Application and he is indisposed today.

7. In view of the above, prosecution shall peruse this order and accordingly take appropriate instructions from the concerned Investigating Officer on the next adjourned date.

8. Stand over to 26th February 2025.

[MILIND N. JADHAV, J.]

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