

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 547 OF 2025

Nikhil Rajusingh Labana

Applicant

.. (Accused No. 10)

Versus

State of Maharashtra

.. Respondent

WITH

BAIL APPLICATION NO. 726 OF 2025

Vinesh Raju Advani

Applicant

.. (Accused No. 9)

Versus

State of Maharashtra

.. Respondent

.....

- Mr. R.D. Suryawanshi for Applicant in BA 547/25
- Ms. Minal Chandnani a/w Ms. Annie Cardoz i/by Jaiwant Chandnani & Associates for Applicant in BA 726/25
- Ms. Mahalakshmi Ganapathy, APP for State

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 28, 2025

P. C.:

1. Heard Mr. Suryawanshi, learned Advocate for Applicant - accused No. 10 in BA 547/25; Ms. Chandnani, learned Advocate for Applicant - accused No. 9 in BA 726/25 and Ms. Ganapathy, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "**BNSS**") in connection with Crime No.

1252/2024 registered with Ambernath Police Station for the offences punishable under Sections 140, 60, 49, 55, 56 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, "**BNS**"); Sections 3, 4 & 25 of the Arms Act, 1959 and Section 37(1) & 135 of the Maharashtra Police Act, 1951.

3. Bail Application Nos. 547/2025 and 726/2025 are tagged together and are directed to be heard together as they are in respect of same crime. However present order pertains to Bail Application No. 547/2025 only.

4. As far as Bail Application No. 726/2025 is concerned, same stands adjourned by a period of one week to enable the learned Advocate for Applicant to file additional affidavit to show the nexus of Applicant - accused No. 9 with accused No. 1 as it is claimed that Applicant - accused No. 9 was an employee of accused No. 1.

5. Briefly stated case of the prosecution is that accused Nos. 1 to 8 and 11 committed the present crime of kidnapping a major boy 20 years old namely Omkar. Learned APP informs the Court that he was released by his abductors on the same day. Be that as it may, role of the Applicant - accused No. 10 is in question before me for grant of bail.

6. Prosecution case is that accused No. 9 purchased a mobile phone sim card from accused No. 10 which was used by his abductors in a newly purchased mobile phone for carrying out the crime in question. Hence the Applicant has been arraigned as accused No. 10 and implicated in the present offence. The issue before me is about the nexus, knowledge and participation in the crime by accused No. 10. In that regard, Mr. Suryawanshi as also learned APP both would refer to and rely upon the statement of witness - Mr. Sanjay Nichlani appended at page No. 327 of the Application wherein he states that he knew accused No. 10. He has stated that accused No. 10 was working for him for a few years prior to the incident since he was an Area Distributor of Airtel sim cards for sale in Ulhasnagar Area. He has stated that sometime in June 2024 accused No. 10 by virtue of his work performance received promotion and he independently started selling sim cards and in that regard the said witness being a distributor had given sim cards to the Applicant for sell. His statement records that in the months of April, May, June and August, the said witness had given 300, 500, 700 and 300 sim cards for sale to the Applicant. The sim card in question used in the present crime was sold by accused No. 10 to accused No. 9 as accused No. 9 approached him due to his acquaintance and friendship. Documents submitted are in the name of one Sunita Prajapati which were given for procuring / buying

of the said sim card by accused No. 9 though it is the prosecution case that accused No. 10 was in the habit of selling sim cards without obtaining appropriate or proper documents. This is *prima facie* not substantiated.

7. In the present case, it is seen that documents were standing in the name of Sunita Prajapati. Learned APP is candid while informing the Court that though the chargesheet has been filed, prosecution has not examined nor investigated the person namely Sunita Prajapati in whose name the sim card was purchased. However learned APP would submit that investigation is on and prosecution will take steps in that regard. Though it is also stated by the prosecution that accused No. 10 had a indirect role in the present crime, *prima facie* nothing is shown to the Court neither any incriminating material is shown to the Court to show complicity of the Applicant in the crime. From the record available in the chargesheet, it is not proved that the Applicant - accused No. 10 had any nexus or knowledge or had participated. He was the seller of the sim card and was not required to know why the sim card was purchased from him. In view thereof, benefit of doubt needs to be given to the Applicant - accused No. 10 considering the above *prima facie* observations.

8. In view of the above, Bail Application No. 547/2025 is allowed in terms of prayer clause (a) subject to the following terms and conditions:-

- (i)** Applicant - Nikhil Rajusingh Labana is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii)** Applicant is permitted to furnish provisional cash bail of Rs. 25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs. 25,000/- within a period of four weeks after his release which shall be accepted by the Investigating Officer. The Applicant shall provide the sureties as directed;
- (iii)** Applicant shall report to the Investigating Officer of concerned Police Station on the third Saturday between 10:00 a.m. to 12:00 noon for the first three months and thereafter as and when called;
- (iv)** Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary

adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

- (v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court. He shall deposit his passport, if any, within two weeks after being released on bail with the Trial Court;
- (vi) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vii) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;
- (viii) Any infraction of the above conditions shall entail cancellation of this order.

9. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on the merits of the case and the trial shall be completed on its own merits and evidence in accordance with law.

10. List the Bail Application No. 726/2025 on **6th March, 2025** to enable the learned Advocate for Applicant to file additional affidavit.

11. Bail Application No. 547/2025 stands allowed and disposed.

Amberkar

[MILIND N. JADHAV, J.]

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signed by
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