

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1207 OF 2025

Devidas Dattatray Waghmare

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Vinod Kashid, Advocate for Applicant.
- Mr. Hitendra J. Dedhia, APP for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 29, 2025

P.C.:

1. Heard Mr. Kashid, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.

2. This is an Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Bail in connection with C.R. No.1252 of 2024 registered with Ambernath Police Station for offences punishable under Sections 140, 60, 49, 55, 56 and 3(5) of Bharatiya Nyaya Sanhita, 2023 read with Sections 3, 4 and 25 of the Arms Act, 1959 and Section 37(1) and 135 of the Maharashtra Police Act, 1951.

3. Applicant is arraigned as Accused No.1 in the present crime. I had the occasion of considering case of Accused Nos.2, 9 and 10 in Bail Application No.486 of 2025; Bail Application No.547 of 2025 and Bail Application No.726 of 2025. Two orders granting bail to the aforesaid Accused persons have been passed by me on 28.02.2025 and

26.03.2025. Those orders are placed before me.

4. *Prima facie*, Applicant is arraigned as Accused No.1 in the present case and according to prosecution case he is the principal Accused who has orchestrated the present crime of having abducted the 20 year old son of First Informant and there after having demanded a humongous ransom amount from First Informant.

5. Mr. Kashid would persuade the Court to consider the case of prosecution as emanating from the record to be at par with Accused No.2 who has been enlarged on bail by order dated 26.03.2025.

6. He would submit that both Accused Nos.1 and 2 happened to be Government servants working in the Fire Brigade Department and friends and accusation against them is that Accused No.2 provided information of First Informant and his son to Accused No.1 for abducting him and for claiming ransom.

7. He would submit that the abductee was immediately returned unharmed on the same day and most importantly no ransom was paid neither any money was exchanged. Case of prosecution against Accused No.1 stems from the fact that his vehicle namely Ertiga Car was used in the crime which was recovered from Accused No.5.

8. That apart, case of prosecution also refers to and relies upon the voice samples collected by prosecution as per page No.293 of the

Application but forensic analysis of which is yet not done.

9. Learned APP has also drawn my attention to the letter appended at page No.367, *inter alia*, calling upon the Tahsildar to conduct the Test Identification parade which has not been done till date so as to identify the Accused persons for the reasons best known to the prosecution.

10. Considering the above *prima facie* evidence borne out from the record which in my opinion is circumstantial in nature and nothing incriminating that apart having been placed on record to persuade me to consider the alleged complicit role of Applicant in the present crime, considering the fact that Accused No.2 having been enlarged on bail by order dated 26.03.2025, I am inclined to consider the Bail Application of Applicant.

11. Case of prosecution as emanating from the record is *prima facie* directed against Accused No.2 who was residing in the same building as that of the First Informant and is alleged to have provided information to Accused No.1 for committing the present crime.

12. Considering the case of prosecution being purely based on circumstantial evidence at this stage, Applicant's case for grant of bail on parity with Accused No.2 is considered by the Court and present Application is therefore allowed on following terms and conditions:-

- (i) Applicant 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) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (v) 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;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

13. It is clarified that the observations made in this order are limited for the purpose of granting Bail only. They shall not be construed as observations on merit. The trial shall be adjudicated on the strength of evidence led by parties and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

14. Bail Application No.1207 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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