

**ORDER BELOW EXH-12 SPECIAL CASE NO.No.304-  
2023**

Kiran Baban Kolpe Vs. State

1. This is an application of accused No.5-Kiran Baban Kolpe, police personal in CR No.641/2023 dated 13.06.2023, registered with Rahuri Police Station under Section-395, 394, 364A, 323, 341, 427, 504, 506 r/w 34, 120B of the Indian Penal Code, under Section-4/25 of the Arms Act r/w Section-37/135 of the Maharashtra Police Act and under Section-3(1)(ii), 3(2), 3(4) of MCOA Act.

2. The applicant contended that the alleged incident occurred on 12.06.2023 at about 9.30 p.m and the complaint was lodged on 13.06.2023 at about 9.30 p.m. The distance between the spot is only five km. From the police station, but there was delay of one day, which was not explained. Section-395 of the Indian Penal Code is not at all attracted. At the most Section-394 of the Indian Penal Code may be made out. The applicant is innocent and only Karta of his family. Because he is in jail, his family members are suffering from great problems.

3. The applicant further submitted that, during police custody, nothing was recovered or discovered from him. He is resident of the above mentioned address, having immovable properties and his family members are at Vilad. He has no criminal record. No overt act is attributed to him. He has been falsely implicated in this crime. The unknown four persons had robbed the complainant. The police had involved ten accused in this crime. Accused No.2, 3, 7, and 8 are released on bail as per Cri.Bail Application No.1410/2023, 1008/2023 and 1246/2023 by

the Sessions Court and accused No.8 was released by the Hon'ble High Court. The role of present accused/applicant is also the same. Therefore, he is claiming parity. The applicant is ready to furnish surety to the satisfaction of the court. Hence, the application may be allowed.

4. The reply at Exh-16 on behalf of prosecution alleges that, complainant is a contractor of electric light. On 12.06.2023 after withdrawing cash of Rs.9,00,000/- for the personal purpose, he was proceeding on Nagar-Rahuri road. At Mula Dam Phata, one four wheeler obstructed his way and robbed him of cash as well as gold chain and gold ring worth Rs.10,20,000/- by assaulting him and his driver.

5. The prosecution further alleges that, Investigating Officer sent a proposal to Special I.G. for approval under Section-23(1)/1(a) of MCOC Act. The same was granted on 07.09.2023. Accused No.1 to 10 are all criminals, having serious crimes registered against them. Previous two bail applications of this accused bearing No.1526/2023 and 1611/2023 were filed. One was withdrawn by the present accused. The present accused is the master mind of the crime. His previous bail application were rejected by the court on merit. There is no change in the circumstances. Hence, it may be rejected.

6. The original complainant submitted his say at Exh-21 alleging that, the present accused was knowing the habitual criminals. He selected said persons to kidnap the complainant at about 9.30 p.m. on a heavy traffic road, knowing fully well that, being police constable, he can do anything. The whole amount was not recovered. But from the present accused Rs.43,500/- were recovered and his four wheeler as well. Some mobile phones were

recovered from him. There is danger to the life of complainant, if the applicant is released on bail. Before the Hon'ble High Court he had preferred bail application. But after full hearing, when he came to know that, the Hon'ble High Court is not inclined to grant it, he withdrew the said bail application. He committed a serious crime along with other accused, who are history-sheeters. If he is released on bail, there is possibility of his committing more crime and danger to his life. Therefore, his application may be rejected.

7. After hearing both the parties, having gone through the case papers, the complaint shows that, when the complainant was proceeding with the said cash in one Brezza car. One white color car carrying four persons put their vehicle across the vehicle of complainant. One of the person broke the window of the car and pulled out driver to make him sit besides complainant. Two persons sat on the front side of the abducted car and two persons sat besides driver and complainant, by covering their eyes with a cloth patti. Thereafter, they took away Rs.9,00,000/- from the bag, gold chain and ring of the complainant. They wandered for half an hour and took the complainant to a place. There the complainant was assaulted with belt and hard object. The driver was also assaulted with kick and boxes. They were saying that, they had taken a contract to kill the complainant. They demanded more money. Finally they said that, only after ten minutes he should remove the *patti* tied around his eyes. When the complainant removed said *patti*, he came to know that he was released at Wambori Ghat.

8. During the investigation it was found that, the accused including the present accused, had organized a crime syndicate and engaged in similar type of offences, with an intention of

gaining illegal pecuniary gain.

9. As far as the present accused is concerned, the allegations in the charge-sheet are that accused No.1 Yogesh Kharat is the gang leader ,whereas the present accused is the member of that gang. There were near about five offences, in last ten years and near about total 18 offences were revealed against these accused, in which they were said to be involved. During investigation from the present accused, three mobile phone having different numbers were seized. Further the gold chain valued Rs.1,20,000/- was produced by him from his own person, with cash of Rs.43,500/- and one car bearing registration No.DL-13-C-5959, whose chassis number was erased . Five mobile phones having different numbers were also found from the dash board of that car. It was found that, the present accused had engaged his vehicle for commission of such offences. The present accused was constantly in contact of the harden criminals as per CDR's. Accused No.1 Yogesh Kharat revealed the name of present accused being his associate.

10. The learned advocate for the applicant/accused submitted that, just because the applicant had complained against the Superintendent of Police in relation to one matter, he was implicated in the present case. It was also argued that, deliberately the car involved in the obstruction was said to be without number, when the number of the car of applicant was permanently displayed upon the same.

11. During investigation it was also found that, the present applicant/accused admitted the offence and on his indication the other accused had conducted recee. They had distributed the material of robbery amongst them and also produced the same.

12. According to the advocate for applicant, the present applicant/accused is a police personnel and have sufficient salary to produce that cash. After near about 14 or 15 years of service, he is able to purchase a chain of gold, which was seized from his possession, but was falsely shown to be a chain in the offence.

13. The investigation also shows that, the CCTV footage of the relevant period shows that, said duster car of accused, was following the vehicle of complainant. It was found that accused No.1 Yogesh, No.2-Anil, No.3-Guddu @ Sagar, No.4-Sonu @ Sonya, No.5-Kiran (**applicant**), No.9-Dhananjay and No.10-Mayur were following the vehicle of complainant by their duster vehicle. Accused No.9 Dhananjay broke the window of complainant's car. Accused No.1 to 3 and 9 and 10 entered the vehicle of complainant and took possession of complainant and his driver, to abduct them. Accused No.5 Kiran (applicant) was driving the vehicle following the car of complainant. They took the complainant to Nagar-Kalyan bye-pass road. Accused No.6 Akash and No.7 Mahesh were sitting in the car driven by present applicant/accused No.5. They took complainant and his driver to Pimpalgaon Malvi. Accused No.4 Sonu @ Sonya and No.8-Sonu @ Shubham came on motorcycle to that place. They took out belt and assaulted the complainant. The accused No.5- Kiran had instructed all the accused to cover their faces by handkerchief. He also gave five mobile, the SIM numbers of which were in the name of different persons, to the accused for their use. Accused No.6-Akash and No.7-Mahesh used iron *katti* while committing the offence.

14. Consequently during the investigation, the above mentioned material was seized. It was also found that accused was having the following crimes registered against them. (i) present

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offence and (ii) offence No.183/2022 under Section-376(2)(n), 420, 494 r/w 34 of the Indian Penal Code. Against accused No.1 Yogesh Kharat there were nine crimes registered at Kopargaon, Loni, Shirdi and Rahuri. Accused No.2-Anil and No.3 Guddu @ Sagar are facing the trial in the present offence. Accused No.4-Sonu @ Sonya was booked in four offences registered at Shirdi, Rahata and Rahuri Police Station respectively. In which two are relating to murder. Against accused No.6-Akash there are twelve offenses registered at various police stations which includes Daund, MIDC, Nagar Taluka, Tophkhana and Rahuri. Most of them are relating to robbery and dacoity. Accused No.7 Mahesh and No.8 Sonu @ Subham Thombe are facing the trial in this crime. Accused No.9-Dhananjay is facing trial in seven offences registered with police stations at Kopargaon, Loni and Rahuri. Accused No.10 Mayur is booked in three offences including the present offence and two offences at Kopargaon city.

15. It is apparent on face of record that, the present applicant was deeply involved with all other accused, who were booked in serious offences like theft, murder, robbery and attempt to commit murder. The Special I.G. did not seem to have mechanically granted sanction, but after going through the record of the other accused and the present accused, came to a reasonable conclusion that, it is major crime syndicate. The photograph of the complainant who had sustained serious injuries shows that, he was mercilessly beaten on various part of the body.

16. The involvement of the present applicant, with criminals having a vehicle erasing its number, providing mobile phones to various accused, clearly indicates that he had formed an coterie of criminals to loot and rob the persons having money. If

the police personnel, who has a duty to protect the citizens ,is involved in such offences and is assisted with criminals on record, it makes the offences more grievous.

17. The contention that only because of complaint to Superintendent of Police, the present applicant/ accused No.5 was involved in the present crime is not supported by any material. What kind of allegations were leveled by the applicant and what would have been its repercussion, is not stated. Instead, the harden criminals had revealed the name of present applicant. If the proof submitted on record are sustained in the evidence, there is every possibility of applicant getting convicted.

18. The investigation and charge-sheet further shows that ,the chain which was seized was belonging to the complainant and it was ultimately handed over to him by the police, on his identification. There is every possibility of his absconding, threatening the witnesses, interfering with the trial and commission of serious offence through organized syndicate. Previous two applications of this accused were rejected on merits. The contents of those orders are matter of record. As the charge-sheet is filed having sufficient material against him, to warrant conviction, consequently the applicant is not entitled to any relief. Hence, the following order;

**ORDER**

The application Exh-12 is hereby rejected.

Date : 20.01.2024

( **Niranjan. R. Naikwade** )  
Additional Sessions Judge,  
**Ahmednagar**