

ORDER BELOW EXH. 16 IN SESSIONS CASE NO. 759/2015

By taking aid of Section 439 of Cr.P.C., the applicant/accused is seeking bail in connection with CR No. 321/2015 u/s. 363, 364A, 385, 307, 323, 504, 506, 452, 341, 147, 148 & 149 of Indian Penal Code registered with Sinhgad road police station.

2] The facts which are necessary for disposal of this application are recapitulated as under:

Informant Miteshkumar Surana is resident of Tarade colony, Sinhgad road, Pune. He decided to run business of Cyber Cafe and he was in need of money. Therefore, he approached to co-accused Viraj Gavane in April-2015. Co-accused Viraj Gavane had given him Rs. 20,000/- as loan @ 30% interest. The informant has to pay Rs. 6,000/- per month as interest. Accordingly, he had paid interest of one month to co-accused. Due to his financial condition, the informant could not repay the principal amount & also interest. Co-accused Viraj and his brother were harassing him for the repayment of the amount. On 06/8/2015, the co-accused Viraj and Harshad were frequently making phone call to informant and threatening to him. On that day at about 10.30 pm they assaulted the informant by hand, but the matter was intervened by one Nitin Dahiwal. On 07/8/2015 at about 7.45pm, the present applicant and co-accused entered into his house and assaulted him. They dragged him out of the house and forcibly took him to Goyalganga Society. The present applicant and co-accused Chingya assaulted him. After sometime co-accused Viraj and Harshad came there. They took the informant in

front of Goyalganga Society and assaulted him by making procession. Then, they took him in one flat at Narhe where he was striped and they started beating to him. Co-accused Viraj Gavane took out a bogus weapon like revolver and by pointing it he asked the informant to make phone call to his father and to come over there by bringing the amount. When the informant was talking with his father, at that time he was necked condition and co-accused Viraj made video-recording of his necked condition. After sometime, the present applicant and co-accused started receiving phone of police, hence they left the informant by threatening not to lodge the complaint. Thereafter, the informant went to police station and lodged the complaint.

3] On the basis of complaint, Sinhgad road police station registered an offence. The present applicant came to be arrested on 7/8/2015. Initially, he was remanded in police custody, and subsequently he remanded in judicial custody. At present, he is lodged in Yerwada Central Prison.

4] Besides the usual grounds of innocence and false implication, the applicant is seeking bail on the ground that as per FIR there was no motive to present applicant to commit offence. Co-accused Harshad Gavane is already released on bail, hence on the ground of parity, he may be released on bail. There is no discovery from him. Investigation is completed. As such, no further custodial detention of applicant is required. He is ready to furnish bail to the satisfaction of court.

5] The prosecution strongly opposed the bail application vide its reply. According to prosecution, he was involved in the commission of offence as well as he is named in FIR, and therefore, he is not entitled for bail.

6] Heard Shri. Dusing, the learned counsel for applicant and Shri. Wadekar, the learned APP for the state.

7] This is the first bail application of the applicant. While deciding the bail application court is required to consider the evidence as well as possibility of tampering evidence and possibility of absconding of applicant. A perusal of the FIR would show that the present applicant took the informant to Goyal Ganga society from his house, where the informant was manhandled. Allegations in the FIR shows that there was monetary transaction between the applicant and co-accused Viraj Gavane. It appears that for the purpose of recovery of the dues the informant was kidnapped. In the instant case, police field charge-sheet, meaning thereby investigation is completed. Co-accused Harshad Gavane has been released on bail by this court. Considering the role played by Harshad Gavane, certainly on the ground appearing in application, the applicant is entitled for bail. In the result, I pass following order.

ORDER

1 Application is allowed.

2 Applicant Nikhil Rajendra Maral be released on bail on his

executing PR bond of Rs. 50,000/- with one or two solvent sureties in the like amount.

3 The applicant shall give attendance to Sinhgad road police station in a fortnight on Sunday in between 9.00 am to 12.00 noon until further order.

4 He shall not directly or indirectly make an inducement, threat or promise to any person acquainted to the facts of accusation against him so as to dissuade them from disclosing such facts to the court or to any police officer.

5 He shall not indulge in any crime, otherwise his bail stands cancelled automatically.

6 Inform concern police station accordingly.

Place-Pune.
Date:- 20.5.2016

Sd/-
[Ashokkumar B. Bhillare]
Addl. Sessions Judge, Pune.