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

BAIL APPLICATION NO.1229 OF 2015

Sanjay Tukaram Bhoir	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.A.P.Mundargi, Senior Counsel a/w Mr.Kedar J. Patil, Mr.Yogesh Ganganand, Ms.Trupti B., for the Applicant.

Mr.Arfan Sait, APP for the Respondent – State.

Police Inspector Mojage N.G. Nerul Police Station.

CORAM : REVATI MOHITE DERE, J.

DATE : 20th AUGUST, 2015

P.C. :

1. Heard the learned senior counsel for the Applicant and the learned APP for the Respondent-State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R.No.312 of 2013 registered with the Nerul Police Station, Navi Mumbai, for the alleged offences punishable under Sections 363, 366(A), 367, 368, 370(5), 373 r/w 34 and 120(B) of the Indian Penal

Code.

3. According to the prosecution the daughter of the complainant – Noor Jahan Mohammad, aged 5 years was kidnapped on 4th November, 2014 at about 11.30 a.m., by some unknown person while she was playing in front of her hut. Accordingly, an FIR was lodged by her on the very same day i.e. 4th November, 2014. During the course of the investigation, the girl was found in the house of the present applicant on 18th January, 2015. Accordingly, the applicant was arrested on the very same day i.e. 18th January, 2015. After investigation, charge-sheet came to be filed as against Kishor Thakur and Salman Khan who are alleged to have kidnapped the girl – Chandani and handed over the said girl to the present applicant and his wife, who is accused no.2. It also appears that there is another similar case being C.R.No.I-33 of 2015 registered with the Vashi Police Station with respect to kidnapping of a minor girl aged 3 years. In the said case, Kishore Thakur, Salman Khan, the present applicant and his wife were arrested.

4. Mr.Mundargi, learned senior counsel for the applicant submitted that

the applicant is a practicing lawyer and the president of the Uran Bar Association. He submitted that after the applicant's divorce with his first wife, the applicant got married to one Ruby, Accused No.2. According to the learned senior counsel, the girl – Chandani in the present case and the other minor girl in C.R. No.I-33 of 2015 were being treated well and that both the girls were being looked after by the applicant and his wife, like their own daughters. He submitted that infact a perusal of the house panchanama shows that there were photo-frames found in the house of the applicant openly displaying the photographs of both the girls. According to him, the girls were taken by the applicant and his wife to all ceremonies and functions. He relied on certain photographs which were produced in the course of the argument in support of his submission. He relied on the statement of Babina, sister-in-law of the applicant to show that when the applicant and his wife (Original Accused No.2) had visited them in Mumbai, for the heart operation of one of the girls, the applicant and his wife had disclosed to her that the girls were adopted by them. According to him, Sections 366(A), 367, 368, 370(5) and 373 would not be applicable to the facts of the present case, as none of the ingredients of the aforesaid sections are disclosed in the present case.

5. Learned APP opposed the bail application. He submitted that although the applicants have been enlarged on bail in a C.R.No.I-33 of 2015 registered with the Vashi Police Station, it was not on merits but under Section 167(2). He submitted that Section 368 of the Indian Penal Code will squarely apply to the present case, as the applicant had concealed and confined the girls in his house.

6. Perused the charge-sheet. Prima facie it appears that the minor girl was kidnapped from the lawful custody of her parents by Kishor Thakur and Salman Khan and was handed over to the present applicant and his wife. There is no material on record to show that the girl was confined or concealed. Prima-facie, there is no material to show that any ransom was demanded so as to attract the provisions of Section 364A. Similarly, prima facie, it is doubtful whether the provisions of Sections 366A, 367, 368 of the Indian Penal Code, would apply to the applicant in the facts of the present case. It also appears from the statement of Babina that the applicant had spent for the heart operation of one of the girls and had disclosed that the girl was adopted. The photographs tendered during the course of argument reflect that the girl was being taken out socially for functions.

The applicant has been in custody since the date of his arrest i.e. 18th November, 2015. Even otherwise, the investigation is complete and charge-sheet has been filed.

7. Considering the material on record, the Applicant deserves to be enlarged on bail on the following terms and conditions :-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- ii) The Applicant shall attend the Nerul Police Station, Navi Mumbai, on first Saturday of every month, between 10.00 a.m. to 11.00 a.m, for a period of 9 months from the date of his release ;
- iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;
- iv) The Applicant shall co-operate in the conduct of the trial.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are confined

to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.