

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
ANTICIPATORY BAIL APPLICATION NO.1614 OF 2014

Irfan Taj Shaikh @ Raju Applicant
Vs.
The State of Maharashtra Respondent

Mr. S.G. Rajput for the Applicant.
Mr. S.H. Yadav, APP, for the Respondent-
State.

CORAM: P.D. KODE, J.

DATED: JANUARY 06, 2015

P.C:

1. Learned APP has objected the prayer for pre-arrest bail made by the applicant in connection with Crime No.34 of 2014, registered with Azad Maidan Police Station, Mumbai for offence under Section 363 of the IPC on the ground that the offence is of a serious nature and the applicant is having antecedents. Learned counsel for the applicant has pressed

the prayer for pre-arrest bail on the ground that complaint being false and even accepting matters in the complaint as they are, same fail to reveal any need of custodial interrogation of the applicant.

2. The crime in question was registered upon FIR lodged by father of victim regarding kidnapping of his son Farman of age 13 years. Without detailing the matters in the FIR, it can be said that earlier part of it pertains to an earlier incident of kidnapping committed by one Raju regarding niece of the first informant. The matters regarding it reveal that material in said earlier incident is in shape of statement of the kidnapped victim Aarifa. Similarly, material in the present incident which had occurred on 11-2-2014 also rests upon the statement of the kidnapped victim Farman. Considering the matters in the FIR in proper

perspective, same appear to be at the most an attempt to kidnap. Such a prima facie inference arises from the fact that the first informant had received information that his son is involved in an accident near Parsi Bawadi and rushed at said place. At said place he found his son sitting on a footpath along with his relative Mumtaz, who had informed him about said incident. The FIR reveals that the son disclosed that the applicant had forcibly made him to ride on his motorcycle and while being taken away he had jumped and sustained injury.

3. The prosecution has not filed reply to the application. Upon query, the learned APP has submitted that besides the statement of the victim there are no eye-witnesses to the incident which is said to have occurred near Parsi Bawadi. The learned APP was also not able to point out the aspect which has remained to

be investigated for want of custodial interrogation of the applicant. Needless to add that no such fact is revealed from the papers of investigation. The learned APP has also not refuted the statement made by the learned counsel for the applicant of the applicant having abided the condition of attendance.

4. In said premises, the application deserves to be and accordingly stands allowed. The ad-interim direction given vide the order dated 18-12-2014 is hereby confirmed on earlier terms and conditions with the addition that the applicant shall not leave the jurisdiction of Cuffe Parade Police Station, Mumbai until filing of the charge-sheet; attend the I.O. on every Monday in between 11:00 a.m. to 1:00 p.m. until filing of charge-sheet; not, directly or indirectly, make any inducement, threat or promise to persons acquainted with the facts of

the accusation against him so as to dissuade them from disclosing such facts to the Court or to any police officer; and not misuse the protection granted vide this order for fleeing away or for committing any further offence.

5. The application accordingly stands disposed of.

(P.D. KODE, J.)