

Anand

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

BAIL APPLICATION No.24 OF 2016

Akshay alias Kishor Arjun Bagal .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.R.S.Kadam, Advocate, for the Applicant

Mr.J.H.Ramugade, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 27.04.2016

P.C.

. Heard learned 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.198 of 2015 registered with the Indapur
Police Station, District – Pune(Rural), for the
alleged offences punishable under Sections 363,
364, 365 r/w.34 of the Indian Penal Code.

3. The Complainant is API Vilas Nale. On 15.03.2015, Rashmikanth Rajnikant Torane, aged 19 years left home after informing his grandfather. It is stated that at about 10.15 p.m., Rashmikanth Torane received a call on his mobile and after telling his grandfather that his friends had come and that he was going with them, he left home. It is further stated that on 16.03.2015 at about 11.45 p.m. his brother Nishikanth received a message on his mobile from Rashmikanth, stating therein, that he had come to Pune that he would come to Bawada after a month. It is stated that thereafter, Rashmikanth's mobile was coming switched off. On 22.03.2015 a missing complaint was lodged by Rashmikanth's grandfather with the aforesaid police station. On 02.07.2015, API Vilas Kisan Nale lodged the aforesaid FIR as against the accused persons.

4. Learned counsel for the Applicant submits that the prosecution case rests entirely

on circumstantial evidence. He submits that till date Rashmikanth has not been traced. He submits that from 13.04.2015 till lodging of the FIR on 02.07.2015, the Applicant was called to the police station and his statement was recorded by the police. He submits that there is no motive alleged as against the Applicant nor is the Applicant a resident of the said village nor is there any material of last seen against the Applicant. He submits that the only allegation qua the Applicant is recovery of the mobile belonging to the deceased. He submitted that Rashmikanth's mobile phone was in possession of the Applicant from 18.03.2015, and that the Applicant had given an explanation for the same i.e. he had found the said mobile phone in a bus in which he was traveling on 18.02.2015.

5. Learned APP does not dispute the fact that apart from the recovery of the mobile phone from the Applicant, there is no material in the

form of last seen or motive as against the Applicant.

6. Perused the papers.

7. Rashmikanth went missing on 15.03.2015; on 22.03.2015 a missing complaint was lodged by the grand father of the deceased and on 02.07.2015 the aforesaid FIR was lodged by API, Vilas Kisan Nale. There is no motive or last seen alleged as against the Applicant, except recovery of the mobile phone of the deceased. Investigation is complete and charge-sheet is filed. There are no antecedents.

8. Considering the material on record, the Applicant is enlarged on bail on the following terms & conditions:

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.20,000/- with

one or two sureties in the like amount;

(ii) The applicant shall report to the investigating officer of the Indapur Police Station, District – Pune(Rural) on the first Saturday of every month between 10:00 a.m. and 11:00 a.m. till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the

applicant's bail.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)