

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1518 OF 2017

**SHAFIULLAHA@BHUTTO KIFAYAT ULLAHA)
KHAN)...APPLICANT**

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Sudeep Pasbola a/w. Mr.Bhaves Thakur i/b. Rahul Arote,
Advocate for the Applicant.

Ms.J.S.Lohokare, APP for the Respondent – State.

Mr.S.A.Bagul, Assistant Police Inspector, Crime Branch, Thane,
Unit I, present in the court.

CORAM : A. M. BADAR, J.

DATE : 7th NOVEMBER 2017

P.C. :

1 The applicant / accused in Crime No.I-361 of 2016
registered with Mumbra Police Station, for offences punishable
under Sections 365, 386, 387, 328, 342 read with Section 34 of
the Indian Penal Code (IPC), by this application, is seeking release
on bail during pendency of his trial.

2 Heard the learned advocate appearing for the applicant / accused. He vehemently argued that statement of First Informant shows that the alleged victim i.e. her husband had told her that he is going to Banaras, in pursuant to a call from co-accused named Nooralam whereas statement of the alleged victim Khalid Qadri goes to show that he had, infact, gone to Patna in Bihar State, pursuant to a call from Nooralam. This was with due discussion with his wife Shama Qadri i.e. the First Informant. It is further averred that the name of the present applicant / accused is figuring in the record of investigation, only after his arrest on 8th August 2016. However, the Investigator has mentioned the date of recording of statement of concerned witness as 6th August 2016 in order to implicate the present applicant / accused in the crime in question. It is further argued that the alleged victim of the crime in question is infact a business partner of the co-accused named Nooralam and they, infact, wanted to raise money. Therefore, criminal angle is given to the civil matter. Considering the role played by the applicant / accused in the crime in question, he is entitled for bail.

3 The learned APP opposed the application by contending that the bail application of co-accused named Irfan, to whom role is attributed is only of injecting sedative to Khalid, is rejected by this court in Bail Application No.2593 of 2016 on 14th February 2017. The learned APP further argued that statement of the victim is duly corroborated by the panchnama dated 8th August 2016, in which the amount of ransom is referred.

4 I have carefully considered the rival submissions and also perused the charge-sheet. Except the place of destination i.e. Patna in Bihar State, prima facie it appears that rest of the evidence gathered by the Investigator is consistent. It is case of the prosecution that co-accused Nooralam had called Khalid Qadri – husband of First Informant Shama Qadri, on the pretext of some work. The First Informant is stating this place as Varanasi whereas her husband Khalid Qadri is stating this place as Patna in Bihar State. According to the First Informant, then, she received telephonic call from her husband as well as some unknown

person. Her husband had telephonically informed her that he has been cheated by co-accused Nooralam by calling him and now he is kept confined at a place named Raksul. Version of the First Informant shows that her husband Khalid Qadri had informed her that co-accused Nooralam had taken an amount of Rs.1 crore from other persons and had informed those persons that he has transferred some amount therefrom to him i.e. Khalid Qadri. The First Informant further averred that she was given account numbers of co-accused named Nooralam and his wife with directions to deposit ransom of Rs.40,00,000/- for getting released her husband Khalid Qadri. Initially, she deposited an amount of Rs.80,000/- in those accounts.

5 Record of investigation shows that the First Informant arranged for an amount of Rs.20,00,000/- and requested Sanjeev Rana alias Pahelwan to arrange for an amount of Rs.10,00,000/-. Then the First Informant along with Sanjeev Rana had been to Village Saptava. Statement of First Informant Shama Qadri and that of Sanjeev Rana shows that this was done in pursuant to the

telephonic call from the present applicant / accused as well as co-accused Nooralam. As directed by them, they had kept the bag containing an amount of Rs.30,00,000/- at unhabitated place near a canal, in order to secure release of Khalid Qadri. They, as directed, then had been to Food Plaza at Raksul Railway station. At about 6.00 p.m., Khalid Qadri came there in a frightened condition.

6 Statement of Khalid Qadri shows that he was called at Patna by co-accused Nooralam on the pretext of purchasing plot of land and then he was taken to some unknown place in a vehicle by administering stupefying substance causing unconsciousness. Khalid Qadri had categorically stated that there he was threatened and assaulted by Nooralam, Irfan as well as the present applicant / accused Shafiullah Khan for demand of ransom of Rs.40,00,000/-. Khalid Qadri further stated about telephonic calls by him to his wife asking her to arrange for an amount of Rs.40,00,000/- for securing his release.

7 On 8th August 2016, police team raided the house at Village Saptava to find the present applicant / accused and Nooralam in the said house. An amount of more than Rs. 29,93,000/- came to be recovered from that house apart from 3 mobiles and Injection Ampule.

8 Considering the nature of offence and the manner in which the crime in question is committed, as well as the evidence collected by the Investigating Officer, at this stage, it cannot be said that victim Khalid Qadri was in need of money and therefore, for raising the money, that demand was stage managed. Ultimately, his relatives were required to collect the amount, and it was found in possession of the applicant / accused as well as co-accused Nooralam. In this view of the matter, no case for grant of bail is made out, and therefore the order :

ORDER

The application is rejected.

(A. M. BADAR, J.)