

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1814 OF 2017

SANTOSH JOGENDRA VISHWAKARMA)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Vijayshankar Tiwari, Advocate for the Applicant.

Ms.PPShinde, APP for the Respondent – State.

Mr.R.N.Shaikh, Police Inspector, DCB CID Unit VIII, present in the court.

CORAM : A. M. BADAR, J.

DATE : 10th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.681 of 2015, registered with DCB CID Unit XI, for offences punishable under Sections 363, 364, 364A, 365, 368, 384, 120B, 506(ii) read with 34 of the Indian Penal Code (IPC), by this application, is seeking his release on bail during pendency of the trial.

2 Heard the learned advocate appearing for the applicant/accused. He argued that entire case of the prosecution against the applicant/accused is concocted and the statement of the prosecution witness named Valli Devendra goes to show that the present applicant/accused had met her on 30th October 2015. However, Investigator has shown arrest of the present applicant/accused on 29th October 2015 and consequently, confessional statement is also of the same date. This is pointing out the fact that the confessional statement, resultant panchnama are antedated documents having no evidentiary value.

3 The learned APP opposed the application by contending that the crime in question is serious and as of now, three prosecution witnesses are examined and warrant is issued to fourth prosecution witness.

4 I have carefully considered the rival submissions and also perused the entire charge-sheet. True it is that statement of one witness is disclosing presence of the applicant/accused at her

shop on 30th October 2015, other contemporaneous documents show that the applicant/accused was arrested and was in police custody on 29th October 2015. This fact too will be required to be explained by the prosecution during the ongoing trial of the case.

5 The FIR in this case is lodged by Mohd. Ashraf Shah on 28th October 2015. The FIR contains an averment that on 27th October 2015 his wife Tasleenum informed him that when their daughter Ashia and son Mohd.Asif were returning from tuition class, three persons came in car and kidnapped Mohd.Asif. After sometime, the First Informant started getting calls on the cell phone of his wife from the accused persons. The First Informant in his supplementary statement has stated that there was demand of ransom of Rs.5 lakh for releasing his minor son Mohd. Asif, who is aged about four years.

6 On the basis of the secret information, according to the prosecution case, the applicant/accused came to be apprehended along with co-accused Rajesh Chouhan. The prosecution is relying

on the confessional statement dated 29th October 2015 of the present applicant/accused recorded in presence of two panch witnesses, wherein he had disclosed the fact that he had kept the kidnapped child at Virar and he is willing to show that place. This confessional statement, as seen from the record of investigation, has resulted in discovery of the fact which is relevant to the prosecution case. It was found that the applicant/accused had led the Investigator to Apartment 105 of Jai Ambe Park Building, A Wing. The kidnapped child was found there in the Company of the co-accused named Sanjay Chouhan and Deepa Gupta.

7 Considering the nature of evidence available against the present applicant/accused and nature of crime and the fact that the trial against the present applicant/accused is going on, no case for bail is made out. Hence the order :

ORDER

The application is rejected.

(A. M. BADAR, J.)