

Anand

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

BAIL APPLICATION NO. 122 OF 2018

Mohd. Abbas Sarfaraz Khan .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. P. Waghmare, Advocate, for the Applicant
Ms J. S. Lohokare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.03.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 141 of 2017 registered with the Trombay Police Station, Mumbai, for the alleged offences punishable under Sections 363, 364A r/w 34 of the Indian Penal Code (for short 'IPC').

3. Learned counsel for the Applicant submits that the Applicant has been falsely implicated in the said case. He further submits that it is co-accused – Imran, who had kidnapped the girl and no

active role has been assigned to the Applicant. He submits that the Applicant is in custody since May, 2017 and that charge-sheet has been filed in the said case. He further submitted that no harm was also caused to the victim girl either by the Applicant or the co-accused and she was dropped on the very next day to her parents house.

4. Learned APP opposed the Application. She submitted that there is sufficient material to show the complicity of the Applicant in the present case.

5. Perused the papers. On 26.05.2017 at about 7.00 p. m., Khatija aged about five years (daughter of the Complainant) had gone to play outside the house. As she could not be found, the Complainant lodged a complaint / FIR alleging an offence punishable under Section 363 of the IPC and expressed suspicion on Imran, his nephew. On 27.05.2017 at about 00.48 a. m., a phone call was received from one unknown mobile number 8655839299. The unknown caller verified about the identity of the person i. e. he was father of the victim girl. The unknown caller threatened the Complainant and asked him not to be over smart as he was standing in the vicinity and demanded Rs. 10,00,000/-. The Complainant's husband informed the police and

expressed suspicion on Imran as his phone was switched off from the time he had left home. Pursuant thereto, the police added Section 364A of the IPC. On 27.05.2017, the Complainant's husband received a call from his workshop and was informed that somebody had dropped the girl Khatija in the workshop. Pursuant thereto, the Applicant and co-accused – Imran were arrested and after completion of investigation, charge-sheet was filed. A perusal of the statement of Mohammed Shaikh, father of the victim girl shows that co-accused – Imran was his nephew and that he had lent an amount of Rs. 85,000/- to set up a factory about three years prior to the incident. It also appears from the said statement that the victim girl's father was demanding his money, Imran had not returned the same. He has also stated that in May, 2017, Imran had asked him for Rs. 25,000/-, however, he refused to give him, as he had not returned the earlier amount. He has stated that pursuant thereto, Imran left the house with his bag. The statement of Mohammed Malik, a shop keeper shows that he had sold one sim card to the present Applicant, which he had illegally obtained on the basis of fabricated documents. It appears that it is from this sim card, that a call was made to the victim girl's father and ransom was demanded. Although, according to the learned counsel, it is not the Applicant who had demanded the ransom amount, it is the prosecution case, that it was the

Applicant who had demanded the said ransom amount. The statement of Mohammed Vakil Shaikh shows that on 26.05.2017, he had met Imran and the Applicant at the Railway Station with the victim girl and that Imran had asked him to keep the girl with him for a few days. The fact, that the victim girl was present with the Applicant and co-accused – Imran is fortified by the CCTV footage which is a part of the charge-sheet.

6. Considering the material on record, this is not a fit case to enlarge the Applicant on bail. The Application stands rejected. However, the trial is expedited. The learned Judge shall make an endeavour to complete the case as expeditiously as possible and in any event within one year from the date of receipt of this order. If for no fault of the Applicant the trial does not conclude within the stipulated period, the Applicant is at liberty to file a fresh Application.

(REVATI MOHITE DERE, J.)