

Anand

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

BAIL APPLICATION NO. 2244 OF 2018

Mohd. Rafiq Ijaj Sayyed .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Ankush N. Dhokale, Advocate, for the Applicant
Mrs. P. P. Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 03.07.2019

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. 364 of 2016 registered with the Nirmalnagar Police Station, Mumbai, for the alleged offences punishable under Sections 363 & 370(4) of the Indian Penal Code.

3. Perused the papers. According to the Complainant – Salim Abdul Khan, his son, aged 3 years was kidnapped on 15.09.2016 at about 5.15 p. m., by the Applicant and co-accused – Raju. Accordingly, the Complainant lodged an FIR as against the Applicant and co-accused

– Raju. The Complainant's son was found on the second day from the custody of original accused Nos. 3 & 4. Learned counsel for the Applicant submitted that the Applicant is only an Auto Rickshaw driver and that there is no material to connect him with the alleged offences. He submitted that the original accused Nos. 3 & 4 from whose custody the son was rescued have been enlarged on bail. A perusal of the statement of Rukmuddin Abdul Kalam Shaikh shows that he had seen the Applicant and co-accused – Raju covering the child with a white bedsheet and putting him in an Auto Rickshaw. The said witness has stated that thereafter, the Applicant, Auto Rickshaw driver fled with the Complainant's son. The said witness has specifically stated that he had seen the Applicant and co-accused – Raju kidnapping the child. The statement of Safia Khan is also similar. She too has stated that she had seen the Applicant and co-accused – Raju kidnapping the Complainant's son on 15.09.2016. As far as the statement of Neha Pandit, aged 9 years is concerned, she too has stated that she had seen co-accused – Raju covering the Complainant's son in a white bedsheet and putting him in an Auto Rickshaw which was driven by the Applicant. Prima facie, considering the material on record, this is not a fit case to enlarge the Applicant on bail. The possibility of the Applicant tampering with the witnesses also cannot be ruled out. Hence, the Application stands

rejected.

4. Since the Applicant is in custody for almost four years, the trial of the Applicant is expedited. The learned Judge to conclude the case as expeditiously as possible and preferably within 12 months from the date of receipt of this order. All parties to co-operate in the conduct of the trial.

5. 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.

(REVATI MOHITE DERE, J.)