

Anand

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

BAIL APPLICATION NO. 3423 OF 2018

Akram Israr Khan alias Suleman Khan .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Amit A. Katarnaware, Advocate, for the Applicant
Mr. A. R.Kapadnis, APP, for the Respondent – State
Mr. Rajan Dhuri, PSI, Sakinaka Police Station present

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. 541 of 2018 registered with the Saki Naka Police Station, Mumbai, for the alleged offence punishable under Section 364A r/w 34 of the Indian Penal Code and under Section 66(D) of the Information Technology Act.

3. Perused the papers. According to the prosecution, the Applicant was staying in the same vicinity, where the Complainant was

residing with his family and their son, aged 5-6 years (victim child). It appears that the Applicant was in need of some money and had to repay some persons the amount borrowed by him, pursuant to which, the Applicant hatched a plan with co-accused – Muskan (juvenile accused), to kidnap the child. According to the prosecution, the Applicant went to the Complainant's residence, asked for tea and gave Rs. 20/- to the victim boy to go and purchase biscuits for him. When the victim boy, aged 5-6 years went to purchase the biscuits, the Applicant's girl friend – Muskan with whom the boy was also friendly, took him to her friend – Ashiya's house and kept him there. It appears that co-accused – Muskan disclosed to her friend – Ashiya that the boy was her aunt's son and since her aunt was unwell, she had brought the boy and that she had to keep the boy with her for 2-3 hours. It appears from the prosecution case, that as the victim boy did not return home, the Complainant's wife informed her husband (Complainant), pursuant to which, he went to the police station to lodge a complaint. The Applicant is also stated to have accompanied the Complainant to the police station. It appears that the Applicant asked the co-accused to arrange for a sim card and thereafter, called the Complainant and demanded an amount of Rs. 1,00,000/- from the Complainant. Since the shop keeper, where the victim boy had gone to purchase biscuits disclosed that the victim boy

was seen with the co-accused – Muskan, the victim boy was traced and rescued from Aishya's residence. Thereafter, the Applicant was arrested. As far a co-accused – Muskan is concerned, the Applicant's girl friend, she has been enlarged on bail by the Juvenile Board.

4. Learned counsel for the Applicant has tendered an Affidavit of the Applicant, aged 19 years. The same is taken on record and marked as “X” for identification, wherein he has undertaken not to enter the premises / area, where the victim boy and his parents are residing. He has also undertaken not to contact, induce, harass or cause threats to the victim or witnesses directly or indirectly or in any other manner. The Applicant has also undertaken not to commit any offence. The Applicant's parents also filed their Affidavits wherein they have taken responsibility of the Applicant and have assured that the Applicant will not contact, induce, harass or cause threats to the victim or witnesses directly or indirectly or in any other manner. The Applicant is in custody since 16.08.2018. Investigation is complete and charge-sheet is filed. The Applicant has no antecedents.

5. Considering the peculiar facts of this case and the Affidavits filed by the Applicant and his parents, the Application is

allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of Rs. 15,000/- with one or two local sureties in the like amount;

(ii) The Applicant shall not enter the jurisdiction of the Sakinaka Police Station, except for the purpose of attending the police station;

(iii) The Applicant shall report to the concerned police station **on the first Saturday of every month** between 10.00 a. m. and 11.00 a.m. The Applicant shall be accompanied by either of his parents to the police station;

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

(v) 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;

(vi) The Applicant to co-operate in the conduct of the trial and to attend the trial Court on every date, unless exempted;

(vii) The Applicant to file an undertaking with regard to Clauses (ii) to (vi) in the trial Court within two weeks of his release;

(viii) 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.

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

7. 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.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)