

Mandira
Salgaonkar

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2496 OF 2019

Santosh Rambhau Kad .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr.Vikas Shivarkar for the Applicant.

Mr.S.V.Gavand, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 1st DECEMBER, 2020

P.C:-

1. The applicant is seeking his release on bail in Sessions Case No.72 of 2017 pending on the file of the learned Additional Sessions Judge, Khed-Rajgurunagar, Pune in C.R.No.318 of 2018 registered with Chakan Police Station, Pune. The applicant is charge-sheeted for the offence punishable under Sections 363, 364-A, 507 read with Section 34 of the Indian Penal Code.

2. Heard Advocate Vikas Shivarkar for the applicant and learned APP Mr.Gavand for the State. With the assistance of the counsel for the parties, I have perused the charge-sheet placed on record, which contain incriminating material against the applicant. Also perused the order dated 26th February, 2019

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passed by the learned Additional Sessions Judge, Khed-Rajgurunagar, Pune, rejecting the application of the applicant.

3. The investigating machinery is set in motion by the mother of the victim boy being Smt.Ashwini Kolekar alleging that on 24th March, 2017, her son aged 4 years 6 months has been kidnapped from the gate of Vidya Niketan School, by a person of the age group between 25 to 30 years, wearing blue shirt and having beard. Based on the said complaint, the offence was registered for kidnapping on 24th March, 2017. On the very same day, statement of one Priyanka Alexander Pinto, teacher in Vidya Niketan English Medium School, came to be recorded. She state that she know Rudra aged 4 years and she is also acquainted with his mother, Ashwini. She state that on 22nd March, 2017, when she had been to the school, Rudra was present. An unknown person came to her classroom and informed her that he had come to pick up Rudra. She told him to go down and asked the attendant to accompany him by stating that parents are not allowed near the classroom. She described the said person as one, who had leather key chain attached to his waist. She stated that outside the gate, one person by name Santosh Kad was standing. She also informed that Rudra's mother had been to the school at 10.45 a.m. for depositing the fees for admission and she was accompanied by Santosh Kad. However, they did not deposit the amount and left. The said witness has categorically stated that Santosh Kad

had taken away Rudra from the school. On 23rd March, 2017, Rudra did not come to the school. On 24th March, 2017, she had seen Rudra.

4. During the course of investigation, statement of several witnesses have been recorded, who had seen Rudra being accompanied by an unknown man and during the test identification parade, the applicant has been identified as the one who had taken Rudra from the school. This include one Arjun Khalate, Vishwas Ovhal and Ravindra Gorkhe. The statement of Usha Khandare reveal that it is the applicant, who had taken Rudra from the school. She has also identified him during the test identification parade.

5. In the supplementary statement of the complainant-Ashwini, she has stated that she was closely acquainted to one Viki Shinde and she used to give him money for his day-to-day expenses whenever he asked for. Viki had informed her that he is in a dire need of money as he is implicated in a police case. In February 2017, when her husband had been on duty, Viki Shinde visited her house and made a demand of Rs.5 lakh since he was implicated in MCOCA. She refused to give the amount asked for, but promised to arrange the amount between 1 to 1.5 lakh. She was threatened by Viki that if she do not pay the amount, he would kill her husband, kidnap her son Rudra and he can stoop to any level. On 24th March, 2017, when her son Rudra did not return from school, she telephoned the persons

known to her, including Viki Shinde.

6. The statement of Pravin Kolekar is also recorded on 5th April, 2017, who has stated that he received a phone call from a mobile, number of which has been given by him and the person at the other end spoke to him in Hindi language and demanded an amount of Rs.15 lakh in case he is desirous of saving the life of his son. Again, the caller rang up and threatened him not to report the incident to the police. It then became clear that the kidnapping was on account of demand of ransom.

7. The material against the applicant is contained in the charge-sheet and also in the supplementary charge-sheet. The applicant is named as the main culprit and he has aided Sandip Thokal in kidnapping the victim, Rudra. There was also a demand of ransom. Pertinent to note that the statement of Rudra has been recorded on 15th April, 2017 and when he was asked as to who had taken him from the school, he says Santosh uncle and Sandip uncle. He has also stated that thereafter he was kept with one Kavita aunty. A feeble attempt has been made by Mr.Shivarkar to submit that Santosh kaka named by Rudra is not the present applicant. Statements to the effect that Rudra has stayed with Kavita are also compiled in the charge-sheet. The statement of Head Mistress of Vidya Niketan is also recorded and she has categorically stated that Santosh was introduced by his mother to be a close relative and in absence of she or her husband not being able to pick up

Rudra, Santosh used to often come and pick up Rudra. Taking advantage of the relationship, the child was moved from the school by the accused persons with the assistance of the present applicant. The charge-sheet contain sufficient incriminating material against him and considering the said material, his application is rejected by the Sessions Court on two occasions. Pertinent to note that the offence under Section 364A is punishable with death or imprisonment for life and also liable for fine.

In light of the aforesaid fact, the applicant do not deserve to be released on bail. Application is rejected.

SMT. BHARATI DANGRE, J