

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO.1934 OF 2021**

Abhijit Ramdas Lokhande .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Kuldeep U. Nikam for the Applicant.

Ms. Rutuja Ambekar, A.P.P. for the State.

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**CORAM : SMT. BHARATI DANGRE, J.**

**DATED : 05<sup>TH</sup> AUGUST, 2021.**

**P.C:-**

1. The Applicant is charge-sheeted in C.R. No.353 of 2020 registered with Lonand Police Station Dist. Satara for the offences punishable under Sections 302, 364, 452, 201 of the IPC. The deceased is one Om, aged 10 months, son of one Mandakini.

2. The case of the prosecution is that the uncle of Om reported to the police station that on 29/09/2020, he received a phone call from his sister-in-law Mandakini, who told him that

she had made the little boy sleep in the rear portion of the house, but the boy was missing from the cradle. She also reported that sometime prior to this, she noticed some unknown person peeping from the door and she suspected that this unknown person could have enticed little Om. Search was carried out, but the boy was not traced and, therefore, the C.R. came to be registered and the wheels of the investigation were set into motion.

3. The police displayed a notice about the child going missing from 29/09/2020 and declared an Award for the person, who could trace and bring the child to the parents or to the police. In the said notice, which was circulated, it is alleged that Om was enticed by a suspect, aged 22 to 25 years, wearing black coloured jeans and T-shirt and he was accompanied by a woman, wearing pink coloured dress and the duo had carried the little boy on their motorcycle. The photograph of Om was also given due publicity.

4. The statement of Mandakini, the mother of Om is recorded on 30/09/2020. She corroborates the informant that she called him, but clarified that she phoned him since she carried an impression that he might have taken the child with him. Mandakini states that when she enquired from the girls, who were present in the house, whether there was anybody in the vicinity, the girls referred to a man wearing black pant and T-

shirt. She, therefore, expressed her suspicion that it is this man, who had taken away her child. On 03/09/2020, supplementary statement of Mandakini was recorded, where she divulged that she was acquainted to the present Applicant, who used to visit the market as a vegetable vendor and since she was also engaged in the same avocation, she got acquainted with him and exchanged her mobile number. She states that the Applicant used to call on her mobile and enquire about her business. Thereafter, he started giving missed calls and phoning her at odd hours. This gave rise to an apprehension in her mind that it would have an impact on her marital life, she states that she had requested the Applicant not to call or establish any contact as this would destroy her marriage. She also states that this was not disclosed by her to anyone. On 29/09/2020, Mandakini received a call from the Applicant at 4.30 p.m., but since she was at home, she did not receive the call, but after sometime, she went outside the house and told him not to disturb her. At 5.00 p.m., her son went missing. In her supplementary statement, Mandakini states that she has been informed by the police that the present Applicant had enticed her son and threw him in a well as he was annoyed with her because of one sided love affair expressed by him and she was not responding to it.

5. Phone call details of Mandakini and the present Applicant are tracked and it revealed that they were constantly in touch with each other on telephone and even on the date of the incident

i.e. on 29/09/2020, there was a phone call at 4.45 p.m.

6. The statements of the two young girls in the house, aged 12 and 9, recorded under Section 161 as well as under Section 164 of the Cr.P.C. are also compiled in the charge-sheet, where they referred to a person standing near the cowshed, wearing a black pant and stripe T-shirt. These girls have identified the Applicant to be the person, who was spotted by them in their house on the day, when Om went missing. This is the evidence against the Applicant, which is compiled in the charge-sheet. Further, there is a CCTV footage, which records that the Applicant was passing on the road towards the house of Mandakini. One Anil Kathure, in his statement recorded under Section 161 of the Cr.P.C. states that at 4.00 O' Clock, he went near the well of Trimbhak Bhagat, where he noticed a person, wearing a black coloured pant and stripe T-shirt. This witness states that he proceeded towards the stream and he pulled water from the well. The time when he spotted the said person is given as 4.00 p.m.. At 5.00 p.m., he was informed by Mandakini that Om was not seen in the house.

From these evidence compiled in the charge-sheet, it can be seen that the prosecution rests its case on the basis of the circumstantial evidence. *Prima facie*, the case in the charge-sheet is not based on last seen theory as the deceased was not seen in the company of the Applicant, but it is alleged that the Applicant was spotted in the nearby vicinity and, as learned

counsel for the Applicant submits, since he had friends in the village, he used to frequent in the village and furthermore, since it has now come in the charge-sheet that Mandakini shared some intimate relationship with the Applicant on the basis of the frequent calls between the two, the possibility cannot be overruled that he had come to see her. However, the evidence compiled in the charge-sheet, at this stage, falls short of pinpointing the Applicant/Accused to be responsible for enticing the child and throwing him in the well resulting into his death.

7. Since the investigation is complete and the charge-sheet is already filed and no apprehension is expressed by the prosecution that the Applicant is a risk to the Society or he will tamper the prosecution evidence, the Applicant is entitled to be released on bail. Hence, the following order:

**: ORDER :**

- (a) The Applicant – Abhijit Ramdas Lokhande shall be released on bail in C.R. No.353 of 2020 registered with Lonand Police Station, District Satara, on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any

person acquainted with facts of case and shall not tamper with prosecution evidence.

(c) The Applicant shall not enter the village Kalaj, Taluka Phaltan, District Satara, where the family of Om is residing.

(d) The Applicant shall mark his attendance in the Sessions Court once in two months.

8. The Application is allowed in the aforestated terms.

9. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

**[SMT. BHARATI DANGRE, J.]**