

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

BAIL APPLICATION NO. 3102 / 2019

Mr.. Sikander Zakari Chouhan

.....Applicant

V/s.

State of Maharashtra

....Respondent

* * * *

Mr. Amresh Sharma a/w. Mr. Sagar Tambe, Advocate for the Applicant.

Mr. Yogesh Dabke, APP for State/Respondent.

CORAM : SANDEEP K. SHINDE, J.

Monday, 8th March, 2021.

P.C. :

1. Heard learned Counsel for the Applicant and learned APP for State.

2. Applicant seeks his enlargement on bail in connection with Crime No. I-11/2019 registered with Shree Nagar Police Station, Thane for the offences punishable under Sections 363, 364-A read with Section 34 of the Indian Penal Code. Applicant is cited as accused no.2, whereas, accused

no.1 is applicant's brother, Kalpnath. Both the accused were arrested on 17th January, 2019. The investigation is over and the final report has been filed.

3. On 14th January, 2019, Manita Jaiswar reported to the police that, her minor son, has been kidnapped by an unknown person, whereupon the offence under Section 363 of the Indian Penal Code, was registered. In investigation, Kalpnath, brother of the applicant was arrested while accepting the ransom of Rs.3,00,000/-. Kalpnath, led the police to the house of the applicant at Bhiwandi, where the minor son of the complainant, Krish was detained. The statement of Krish (minor son) was recorded on 17th January, 2019, wherefrom it appears that accused no.1, Kalpnath kidnapped him and detained him in the house of his brother, who is the applicant before this Court. Learned Counsel for the applicant would argue that, applicant was told by his brother that, boy's mother being admitted in the Hospital & there was nobody to look after him & thus boy would stay at his house for some days. Thus, believing elder brother, the applicant permitted him to keep Krish in his house. Statement of Krish shows, he

was kidnapped by accused no.1 to whom, he knew by “T.V. wale Chauhan Uncle”. Boy’s statement does not suggest that, applicant has threatened to hurt him nor compelled his parents to pay the ransom. The allegations of kidnapping minor for ransom are made against accused no.1, as it appears from the statement of Krish. The role attributed to the applicant is that, he permitted and allowed his brother to keep Krish in his house. Thus, in consideration of the facts of the case and in particular, statement of Krish recorded on 17th January, 2019, in my view, a case is made out for releasing the applicant on bail. Thus, the following order :

ORDER

(i) The applicant arrested in Crime No. I-11/2019 registered at Shree Nagar Police Station, Thane shall be released on bail on executing P.R. bond for the sum of Rs.50,000/- (Rs. Fifty Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall report to the Investigating Officer on Monday in the third week of each month

between 11:00 to 1:00 p.m. till the charge is framed and co-operate in the investigation.

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer forthwith within a week of his release from jail.

(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.

4. The application is accordingly allowed and disposed off.

5. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)