

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 3173 OF 2022
IN CRIMINAL APPEAL NO. 311 OF 2021**

Ajhar Manjoor Shaikh,
Age : Major, Occu. Labour,
R/o. Fakirgalli,
Tq. & Dist. Ahmednagar.

... APPLICANT

VERSUS

The State of Maharashtra
Through Police Inspector,
Tophkhana Police Station,
Ahmednagar, Dist. Ahmednagar.

... Respondent

Mr. V. S. Tanwade, Advocate for the applicant
Mr. R. B. Bagul, APP for the respondent/State
Mr. N. B. Narwade, Assist to PP.

**CORAM : R. G. AVACHAT &
R. M. JOSHI, JJ.
DATEED : 17th OCTOBER, 2022**

PER COURT:-

1. By this application, applicant/convict Ajhar Manjoor Shaikh is seeking suspension of substantial sentence of life imprisonment for offence punishable under Section 364-A of the Indian Penal Code imposed by Sessions Judge, Ahmednagar in Sessions Case No. 41 of 2020 by judgment dated 22nd April, 2021 and enlargement on bail during the

pendency of appeal.

2. Learned counsel for the applicant submitted that evidence of victim is doubtful as he has not intimated about his alleged abduction for extortion though he had numerous occasions to disclose about the same to family members, police, S.P. etc. It is submitted that owing to dispute between victim and present applicant he is falsely implicated in this crime. He drew attention of the Court to the said evidence on record in order to submit that on the basis of the same applicant ought not to have been convicted by the learned Trial Court. He also submitted that there is no recovery of any weapon and therefore, the offence punishable under Section 364-A of the Indian Penal Code is not attracted.

3. Learned APP opposed the said contention with the submission that there is no reason for disbelieving the testimony of victim and that not only his evidence is unshattered but also there is evidence of identification of the co-accused in the identification parade as well as before the

Trial Court. Thus, according to him considering seriousness of offence it is not the fit case for enlargement of the applicant on bail by suspending substantive sentence.

4. This Court has *prima facie* considered the material on record which disclosed that victim was taken forcibly in vehicle by 5.30 a.m. on 18th November, 2019 from Ahmednagar to Aurangabad and Jalna. Evidence of victim given entire account of events is found reliable by learned Trial Court as nothing is elicited from the cross-examination to suggest about false implication by him of present applicant in this crime. There is evidence of Tanveer Shaikh (PW-4), who at the relevant time in front of Masjid has heard commotion and found one person shouting in the white colour car. Thus, there is support to the testimony of the victim about his contention about his abduction.

5. As far as contention of the learned counsel for the applicant for about non recovery of weapon is concerned, use of weapon is not sine quanon for proving offence punishable

(4)

under Section 364-A of the IPC. The act of the applicant and co-accused of forcibly taking victim from Ahmednagar to Aurangabad and Jalna with evidence of the victim about they demanding money from him is sufficient conduct giving rise to reasonable apprehension that victim may be put to death or hurt in order to compel him to pay ransom.

6. It is clarified that observations made herein are *prima facie* consideration of case. In the above said discussion, no case is made out by the applicant for suspension of sentence. Hence, application is rejected.

(R. M. JOSHI, J.)

(R. G. AVACHAT, J.)

SSP/cra3173