

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

BAIL APPLICATION NO.124 OF 2022

1. Kerba @ Kiran s/o Laxman Mudale
Age: 26 years, Occu.: Labour,
2. Maruti @ Bhavdya Laxman Mudale
Age: 28 years, Occu.: Labour,
R/o.Kalmatha, Tq.Ausa,
Dist.Latur. ..Applicants

VERSUS

- . The State of Maharashtra
Through Police Station Renapur,
Tq.Renapur, Dist.Latur. ..Respondent

...
Advocate for Applicants : Shri S.J.Salunke h/f. Shri Vikrant S. Valse
APP for Respondent : Shri S.B.Narwade

...
WITH

BAIL APPLICATION NO.1704 OF 2021

- . Deepak @ Balu S/o Ram Mudale
Age: 23 years, Occu.: Education,
R/o. Kalmatha, Tq.Ausa,
Dist.Latur. ..Applicant

VERSUS

- . The State of Maharashtra
Through Police Station Renapur,
Dist.Latur. ..Respondent

...
Advocate for Applicants : Shri Shaikh h/f. Shri S.S.Deshmukh
APP for Respondent : Shri S.B.Narwade

...

CORAM : M.G.SEWLIKAR, J.

DATE: 8th February, 2022

PER COURT :-

1. Both these applications are disposed of by common order as they arise out of the same crime.
2. I have heard learned counsel for the applicants in both the applications and learned APP for the respondent-State.
3. From the narrations in the FIR, it is seen that on 1st September, 2020, informant alongwith his grandsons by the name of Devesh aged 7 years, Riyansh aged 5 years and Driver Prakash Dubal had been to village Sangavi. On 11th September, 2020 at about 05:30 p.m. both the grandsons were playing in the lane. After a while, those two grandsons were not being seen. Therefore, informant started looking for the grandsons. At that time, he came to know that a Santro Car had come near his house in which there were three persons. The said Car sped towards village Sindhgaon. Accordingly, report came to be lodged on the basis of which Crime No.0579 of 2020 came to be registered with Renapur Police Station, Dist.Latur, under Sections 363, 364-A, 120-B read with Section 34 of the Indian Penal Code.
4. During the investigation, it was revealed that the applicants and other accused had kidnapped child Riyansh for

ransom.

5. Shri S.J.Salunke, learned counsel holding for Shri V.S.Valse, learned counsel for the applicants in Bail Application No.124 of 2022 and Shri Shaikh, learned counsel holding for Shri S.S.Deshmukh, learned counsel for the applicant in Bail Application No.1704 of 2021 submit that FIR is against unknown persons. There is no evidence of ransom. Child Riyansh was traced by the Police and handed over to the informant.

6. Shri S.B.Narwade, learned APP for the respondent-State submits that there is evidence to show that the applicants had kidnapped child Riyansh. He further submitted that the applicants had the intentions to demand ransom. However, they could not execute the demand of ransom as Police started trailing them. Therefore, they had to abandon the idea of ransom. He submitted that there is sufficient evidence against the applicants.

7. On perusal of the investigation papers and the charge-sheet, it is evident that there is no evidence of demanding ransom by the applicants. Except, the CDR report, there is no evidence to show that the applicants had made a demand of

ransom. The CDR reports are between the accused persons *inter se*. There is no evidence to indicate that the applicants or any of the accused had called up the informant or any of his relatives and demanded ransom. The child Riyansh was handed over to the informant without there being any injury on his person. Unless there is evidence of demand of ransom, Section 364A of the Indian Penal Code is not attracted.

8. In the case of ***Malleshi Vs. State of Karnataka [(2004) SCC 95]***, the Hon'ble Apex Court has held that : -

"To attract the provisions of Section 364A, what is required to be proved is :

- (1) that the accused kidnapped or abducted the person;*
- (2) kept her under detention after such kidnapping and abduction; and*
- (3) that the kidnapping or abduction was for ransom."*

9. There is no evidence to indicate that kidnapping was for ransom. Therefore, *prima-facie*, Section 364A does not get attracted. Co-accused has been released on bail by this Court. On the ground of parity also the applicants are entitled to be released on bail. In this view of the matter, following order is passed:

ORDER

i) Bail Application Nos.124 of 2022 and 1704 of 2021 are allowed.

ii) Each of the Applicants be released on P.R.Bond of Rs.40,000/- (Rs.Fourty thousand only) with one solvent surety in the like amount, in connection with Crime No.0579 of 2020, registered with Renapur Police Station, District Latur, under Sections 363, 364A, 120-B, read with Section 34 of the Indian Penal Code, and on condition that they shall not tamper prosecution evidence and the applicants shall not keep any contact with the victim or the informant and shall not enter the village of the informant till the conclusion of the trial.

iii) Bail Applications are disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M.G.SEWLIKAR)
JUDGE