

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

BAIL APPLICATION NO.1424 OF 2023

Eti Trinath Vyankatrao

Age: 30 years, Occu: Service

R/o: Jayram Street, Kothavera, Vagucentre, Vajieabad,
[Andhra Pradesh]

Presently Residing at Sundarya Park,
Suryanagar, Hyderabad [Telangana State]

... Applicant

Versus

The State of Maharashtra
Through Kotwali Police Station,
Parbani Tq: & Dist. Parbhani

... Respondent

...

Mr. G. R. Syed, Advocate for the Applicant

Mr. S. B. Narwade, APP for Respondent/State

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CORAM : S. G. CHAPALGAONKAR, J.

Reserved On : 20.09.2023

Pronounced On : 05.10.2023

FINAL ORDER :-

1. Heard the learned Advocate appearing for the applicant and the learned APP for the respondent/State.
2. By this application, the applicant seeks regular bail in connection with Crime No.64/2022, registered with Kotwali Police Station, District Parbhani for the offences punishable under Sections 363, 368, 370, 202 r/w Section 34 of the Indian Penal Code [for short 'IPC'].

3. The investigation was set in motion on the basis of information given by one Shaikh Munnibee Shaikh Ayyub. It is reported that, the informant resides along with her mother and children at Lohgaon Road, Sakla Plot, Parbhani. Her son Shaikh Huzer Shaikh Ayyub left the home following his grand-mother. However, he could not be located thereafter. On 04/03/2022, the mother of the informant came back from Parli. However, she was not knowing whereabouts of the son. A search was taken for him at various places and relatives, however, all efforts were failed. Hence, she lodged a complaint that her son, namely, Shaikh Huzer aged about five years has been kidnapped by the unknown persons. The investigation was progressed in pursuance of the aforesaid crime. The applicant has been arrested on 08/03/2023. He was remanded to the police custody till 14/03/2023. Since then, he is behind the bars. His prayer for grant of bail has been rejected by the Sessions Court, Parbhani vide order dated 27/06/2023. Hence, the present application.
4. The learned Advocate appearing for the applicant would submit that the applicant is an innocent person and he has been falsely implicated in the aforesaid crime. He would submit that the entire case of the prosecution is based on assumption, presumption and surmises. The material in charge-sheet is not sufficient to pinpoint the involvement of the applicant in the crime. There is absence of

admissible and acceptable evidence that can be used against the applicant to show his complicity in the crime. He would further submit that the investigation is over. The applicant is behind the bars for more than six months. The further detention of the applicant would not be necessary. As such, he urges to release the applicant on bail.

5. Learned APP strongly opposes the prayer. He would point out that the applicant has played the important role in commission of offence. The applicant acted as a important chain between the accused - Rudresh Warang, accused - Kethavarpu Laxmi and accused - Surya Namila. He would submit that during the course of investigation, the CDR of mobile locations are collected, which supports his presence at the relevant spots. Similarly, the account statement supports the fact that the applicant has received financial benefit from such transactions. Hence, he urges to reject the bail application.
6. Having considered the submissions advanced, apparently, the applicant is alleged to have played role in trafficking of the victim. The charge-sheet shows that the accused - Akhtarbi @ Baji kidnapped the victim - Shaikh Huzer from Sakla plot and handed over him to accused - Pravinbee @ Sultana. She took the victim to Hyderabad in a private car. Meanwhile, she established contact with accused - Sangeeta @ Geeta @ Ruksana and accused - Rudresh Warang through her mobile call, who received custody of the victim at hotel Comfort Rest

at Secundrabad. Thereafter, accused – Rudresh Warang is alleged to have handed over the victim to the accused – Eti Trinath Vyankatrao [present applicant] and accused – Umadevi Bommadi. They contacted with accused – Surya Namila and Kethavarpu Laxmi and handed over the victim to them on 06/03/2022 and finally, they handed over the victim to witness – Venu Akula and his wife – Vijaya under the pretext of intended adoption by parents of the victim. The amount of Rs.4,00,000/- has been received by the accused persons in consideration of handing over of the victim. The aforesaid allegations would show that the role attributed against the applicant is to receive the victim from custody of accused – Rudresh Warang and then transferring him to Surya Namila and Kethavarpu Laxmi.

7. In support of the aforesaid allegations, reliance is placed on the alleged CDR record and money transactions amongst the accused persons. The perusal of the charge-sheet would show that the bank statement on record nowhere depicts that the applicant has received any amount from the accused persons as has been noticed in respect of the other accused persons. Similarly, the allegation is that the information regarding involvement of the applicant is received from co-accused persons, which is not established either by way of confessional statement of accused or by any other mode. *Prima facie*, the allegations against the applicant are bereft of requisite evidence.

8. Although the call record shows that the applicant was in touched with the co-accused – Rudresh Warang on 5th and 6th March, 2022, that itself would not sufficient to establish that the communication between the applicant and co-accused persons caused in pursuance of commission of offence. Merely, on the basis of fact that the mobile communications of co-accused persons with the applicant are seen during the relevant period. The complicity of the applicant cannot be assumed in absence of any other substantive piece of evidence. In that view of the matter, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, namely, Eti Trinath Vyankatrao be released on bail in connection with Crime No.64/2022, registered with Kotwali Police Station, District Parbhani for the offences punishable under Sections 363, 368, 370, 202 r/w Section 34 of IPC on furnishing P.B. and S.B. of Rs.1,00,000/- [Rs. One Lakh Only] on the following conditions:
 - (a) The applicant shall not tamper with the prosecution evidence in any manner.
 - (b) He shall attend each and every effective date during the course of trial.
 - (c) He shall furnish his residential address with proof of contact numbers to the concern Police Station as well as with local Police Station where he is residing and also furnish compliance to the trial court within 30 days of his release on bail.

(iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer