

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

BAIL APPLICATION NO. 2062 OF 2023

**NAMDEV FONDU SAWANT
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr. Alphy D'Souza a/w Mr. John
Fernandes and Mr. V.S. Gaonkar h/f Mr. S.P. Nimbalkar
APP for Respondent No. 1/State : Mrs. P.J.Bharad
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CORAM : S.G. CHAPALGAONKAR, J.

Date of Reservation : 13.12.2023

Date of Pronouncement : 19.12.2023.

PER COURT :

1. The applicant seeks regular bail in connection with Crime No. 514 of 2023, registered with Shivaji Nagar police station, District Beed for the offences punishable under sections 370 and 363 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the information given by Komal Shriram Chavan, who alleges that four year ago she had married with Akash Aade. From her matrimonial relationship she has blessed with a son namely Kartik. Because of her discord with husband, she is residing

with her parents. She had acquaintance with accused Chhaya Deshmukh. On 18.09.2023 accused Chhaya Deshmukh met her. Accused Kishor Bhojane was also there. They assured that they would arrange for her second marriage and they would arrange further management of better future of her son. Accordingly she proceeded towards Pandharpur along with accused Chhaya Deshmukh and Kishor Bhojane, then towards Kolhapur, in turn towards Belgaon. When they left Belgaon for proceeding towards Hubli, they handed over her son to a lady accompanied with a man for a consideration of Rs. 50,000/-. All of them proceeded towards Goa and returned back to Solapur. On 24.09.2023, while the informant was in journey from Solapur to Ambad, she met with a police officer and narrated the incident. Accordingly, an offence came to be registered against in all seven accused persons including applicant. Investigation progressed. The applicant came to be arrested on 03.10.2023. He was remanded to police custody till 03.10.2023, since then he is in the magisterial custody. His application for grant of bail has been rejected by order dated 23.10.2023. Hence this application.

3. Learned Advocate appearing for the applicant would

submit that the applicant is innocent person and he has been falsely implicated in the aforesaid crime. He would submit that the investigation in the matter is completed and the charge-sheet is filed. The applicant is aged about 60 years. Co-accused Deepak Kelilkar and Lalita Bhise have been already released on bail. The entire charge-sheet nowhere depicts that the applicant has committed any offence as alleged. The applicant is behind the bar for a period of more than two months and his further detention is not necessary, hence he seeks release of the applicant on bail.

4. The learned APP for respondent State has strongly opposes the prayer contending that the applicant has assisted applicant No. 7 in procuring child and worked as link between accused No. 7 and accused No. 5. He would submit that the offence is serious. The applicant is residence of Goa, it would be difficult to bring him to the trial in case of his release.

5. Having considered the submissions advanced and on perusal of documentary evidence placed on record, it is apparent that the allegations in the F.I.R. specifies that accused Nos. 1 and 2, in collusion with accused Nos. 3, 4 and 5, reached

accused No. 7, who wanted to adopt a child. Applicant No. 1 received an amount of Rs. 3,50,000/- from accused No. 7, in consideration of providing the child. The other accused persons received some part of the amount by way of commission. The role of the applicant is stated to be linked between accused No. 7 and accused No. 5. Pertinently, there is no allegation that the applicant has received any commission from the main accused. The investigation papers show that he got information from accused No. 5 Appa Kerekar regarding availability of child and facilitated accused No. 7 to get the child on payment of Rs. 3.5 lakhs. It is alleged that the applicant has facilitated accused No. 7 to receive the child and carry home. Pertinently, the child is safely received back and the applicant along with accused No. 7 brought him to Police Station Valpai. It appears that accused Deepak Kelilkar and Lalita Bhise are already enlarged on bail, though they alleged to have received the commission. Apparently applicant co-operated during the investigation. The charge-sheet is filed. In that view of the matter, further detention of the applicant would not be necessary. The learned APP confirms that the criminal antecedents are not reported to the discredit the applicant .

Hence, the case is made out for grant of bail. Hence the following order :

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant – Namdev Fondu Sawant, be released on bail in connection with Crime No.514 of 2023, registered with Shivaji Nagar police station, District Beed, for the offences punishable under sections 370 and 363 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand), on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend trial Court on each and every effective dates of hearing.
 - c] The applicant shall furnish his detailed residential address with supporting documents and contact numbers with the concerned police station, which shall be kept updated.
- iii. Bail application is accordingly disposed off.

**(S.G. CHAPALGAONKAR)
JUDGE**