



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.397 OF 2024**

Raju Narsaiya Nakka
versus
State of Maharashtra

... Applicant
... Respondent

Mr. Vinod S. Chate with Ms. Kalpana V. Chate i/by Chate and Associates for Applicant.

Mr. M.G.Patil, APP for State.

Mr. Suresh Desarale, PSI Bandra Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 30 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.508 of 2021 registered with Bandra Police Station for the offences punishable under Sections 120B, 363, 368, 370, 201 read with Section 34 of the Indian Penal Code.
3. The indictment against the applicant and the co-accused is that the applicant and co-accused Farhana Shaikh and Paramdam Gundeti had entered into a conspiracy to steal a child and sell the same to accused No.1 Rajarao. In pursuance of the said conspiracy, on the night intervening 31 August 2021 and 1 September 2021, accused No.2 Farhana Shaikh, who had befriended the first informant, took away her 10 months child, without the consent of the first informant, while they were sleeping on a footpath below the bridge near Mahim Causeway. The applicant had allegedly

brought the accused No.1 to Mumbai to purchase the said child.

4. Learned Counsel for the Applicant submitted that the applicant was not involved in kidnapping of the child. The applicant has been roped in on the basis of the disclosure statement made by the co-accused Paramdam Gundeti. The accused No.1 Rajarao has been released on bail by the Supreme Court by an order dated 30 January 2023.

5. Learned APP resisted the prayer for bail. It was submitted that the applicant had accompanied the accused No.1 to Mumbai from Hyderabad. In the search of the applicant, the amount of Rs.35,000/- which formed part of the amount which the applicant and the co-accused had collected from Accused No.1, came to be recovered. Therefore, having regard to the gravity of the offences, the applicant does not deserve to be release on bail.

6. I have perused the report under Section 173 of the Code and the documents annexed with it. I find substance in the submission of the learned Counsel for the Applicant that no role of kidnapping the child is attributable to the applicant. Even from the disclosure statement of the co-accused, it appears that the child was enticed away by Farhana Shaikh and she delivered the child to Paramdam Gundeti and, the the latter had informed the applicant about the same and, thereafter, the applicant had accompanied the accused No.1 to Mumbai.

7. In the aforesaid view of the matter, since the accused No.1 has been

released on bail and, prima facie, it appears that the role of kidnapping of child cannot be attributed to the applicant and the applicant is in custody since 3 September 2021 and it is unlikely that the trial can be concluded within a reasonable time, I am inclined to exercise the discretion in favour of the applicant.

8. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Raju Narsaiya Nakka be released on bail in C.R.No.508 of 2021 registered with Bandra Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence before Bandra Police Station on first Monday of every alternate month in between 11 am to 1 pm for a period of two years or till the conclusion of the trial whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case

there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)