

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.464 OF 2024

Yash Sandip More

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Sarthak S. Diwan, Advocate, for the Applicant.

Ms. Savita Yadav, APP, for Respondent- State.

Mr. Sachin Lahamange, PSI, Sinnar Police Station, Nashik Rural.

CORAM: MADHAV J. JAMDAR, J.

DATED: 21st March 2024

P. C.

1. Heard Mr. Diwan, learned Counsel for the Applicant and Ms. Yadav, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C.R. No.	09 of 2023
2.	Date of registration of F.I.R.	5 January 2023
3.	Name of Police Station	Sinnar, Nashik
4.	Section/s invoked	363, 364-A, 387 & 34 of I.P.C., 1860
5.	Date of incident	5 January 2023
6.	Date of arrest	6 January 2023
7.	Date of filing Charge-sheet	4 April 2023

3. There are total 4 Accused persons. The Applicant is Accused No.2. As per the prosecution case as reflected in the F.I.R. and in the

investigation papers, the victim - a boy aged 12 years, returned from school at about 5.15 p.m. and went to the ground at 6.00 p.m. for playing with his friends. After that, when he was returning to his house at about 7.00 p.m., two persons picked him and put him in a car and a third person was driving the said car. The Accused thereafter contacted the mother of the victim boy on cell phone. Initially the victim boy had a conversation with his mother and he informed his mother that three persons were taking him to some place and that they want to talk with her. Thereafter one person spoke with the mother of the victim and told her that the victim boy is in their custody and if the same is informed to the Police then they would kill the victim boy. Said person further told the mother that if she wants the victim boy to return safely then she would have to pay money. At that time, mother of the victim boy told the said person that she would pay the money but the victim boy must not be harmed. The said person told the mother that they would tell her about the ransom amount on the next day and then he disconnected the phone call.

4. Thereafter the victim was taken to different locations and ultimately at about 10.00 p.m., he was brought outside the farm house belonging to the family of the Accused No.4. The present Applicant is the Accused No.2. As per the prosecution case, there are total 4 Accused. Accused Nos.1, 2, and 3 have actually participated in the

kidnapping in question and in making the ransom demand to the mother of the victim via a phone call. As far as the role of the Accused No.4 is concerned, he received a phone call from Accused No.1 at about 10.07 p.m. and the Accused Nos.1 to 3 brought the said car outside the farm house of the Accused No.4 and the Accused No.4 questioned Accused Nos.1 to 3 about the purpose of their arrival at his farm house and told them to immediately leave the said place. The prosecution case further shows that Rushikesh Annasaheb Wani i.e. cousin of the Accused No.4 told Accused Nos.1 to 3 that the said victim boy should immediately be handed over to his parents or else he would inform the Police about the same. Accordingly at about 12.30 a.m., the victim was dropped near his house by the Accused Nos. 1 to 3 and he then returned to his house.

5. Learned Counsel for the Applicant submitted that as per the prosecution case, the main role is attributed to the Accused No.1 and 3, who have actually kidnapped the boy and put him in a car. He submitted that as per the prosecution case, the only role attributed to the present Applicant i.e. Accused No.2 is that he was driving the said vehicle which was used for kidnapping. He submitted that the investigation is completed and the Charge-sheet has been filed. The Applicant is in custody since more than 1 year and except for the statement of the victim, there is nothing else on record to prove that the

Applicant was present at the place of the incident in question. Learned Counsel for the Applicant submitted that the Accused No.4 has been released on bail and therefore, the Applicant may also be released on bail.

6. On the other hand, Ms. Yadav, learned APP strongly opposed the Bail Application. She submitted that the Applicant was driving the said car and that he has been identified by the victim boy. She submitted that the C.D.R. report shows that all the accused persons were in contact with each other both before and after the incident. She submitted that Accused Nos.1 to 3 have participated in a very serious crime. She submitted that the Applicant cannot get any benefit of the order granting bail to the Accused No.4 as his role is different and he was not involved in the offence of kidnapping the victim boy and making the demand of ransom money. She therefore submitted that the Bail Application be rejected.

7. Perusal of the record shows that the offence is extremely serious. Accused Nos.1 to 3 kidnapped the victim boy and also threatened the parents of the victim that they would kill the victim if any information about the said kidnapping was given to the Police and that they would inform about the amount of ransom money on the next day. Accused Nos.1 to 3 after committing the said offence, approached the Accused No.4 and when they all arrived with the victim boy in the said car near

the farm of Accused No.4, he immediately told them to leave the said place. At that time Rushikesh Annasaheb Wani i.e. cousin of the Accused No.4 told Accused Nos.1 to 3 that the victim boy should immediately be handed over to his parents or else he would inform the Police about the same. Thereafter, the victim was eventually handed over to his parents. Thus the role attributed to the Accused No. 4 is entirely different from that of the Applicant.

8. The prosecution case also shows that Accused Nos.1 to 3 were continuously in contact with each other prior to as well as after the commission of the offence in question as the C.D.R. report shows that all the Accused were continuously in contact with each other. In any case, all of them participated in a serious offence of kidnapping the victim boy for ransom money. The offence in question is very serious. *Prima facie*, the Applicant has participated in a grave and serious crime. Therefore, this is not a fit case for grant bail.

9. Accordingly the Bail Application is rejected.

[MADHAV J. JAMDAR, J.]