



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1310 OF 2024**

Gafurnisha Munawar Ali Khan @ Rani @ Aapa	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Keshav Chavan, for Applicant.
Mr. Tanveer Khan, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 28 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.1144 of 2022 registered with Santacruz Police Station for the offences punishable under Sections 363, 370(1), 368 read with Section 34 of the Indian Penal Code.
3. The first informant is a rag picker. On 30 October 2022 at about 10.00 p.m, her one year old daughter and son were kept with the first informant's mother, while the first informant had gone to collect polythin bags. When she returned to footpath near SNDT College, Juhu Tara Road, the daughter of the first informant was not present thereat. The first informant, thus, lodged a report to the effect that somebody had kidnapped her daughter. During the course of investigation, it transpired that two ladies travelled to Solapur along with an abducted child. Co-accused Sharifa Shaikh and Sujatadevi were apprehended at Solapur Railway Station

along with the victim. It further transpired that they were to deliver the said child to the applicant at Hyderabad. However, the applicant did not turn up. Therefore, they were returning to Mumbai and, on the way, they were apprehended by police.

4. Learned Counsel for the Applicant submitted that apart from the statements of the co-accused who had kidnapped the child, there is no other material to connect the applicant with the alleged offences.

5. Learned APP, on the other hand, resisted the prayer for bail. It was submitted that during the course of investigation, it transpired that the co-accused and witness had forwarded the photograph of the child on the mobile phone of the applicant and there were conversations and chats between the applicant and the co-accused. Therefore, having regard to the gravity of the offences, the applicant does not deserve to be enlarged on bail.

6. I have perused the report under Section 173 of the Code and the documents annexed with it. Evidently, the applicant is not the person who had allegedly kidnapped the child. Nor the child was found in the custody of the applicant. Initially, co-accused stated that the applicant was to take the custody of the child and, therefore, they had travelled to Hyderabad but the applicant did not turn up to take the delivery of the child. Hence, they returned to Mumbai. The prosecution proposes to establish the nexus between the applicant and the offences on the basis of the calls and chats between the applicant and the co-accused. Prima facie, it appears that the

applicant did not turn up as promised. Therefore, in a situation of this nature, whether the applicant can be roped in as a person who was a privy to trafficking of the child appears to be debatable.

7. The applicant has been in custody since 10 November 2022. The conclusion of the trial may take time. In the backdrop of the nature of the accusation, I am inclined to exercise discretion in favour of the applicant.

8. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Gafurnisha Munawar Ali Khan @ Rani @ Aapa be released on bail in C.R.No.1144 of 2022 registered with Santacruz 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 Santacruz Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of three 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.)