

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.111 OF 2024

Rampal Udaybhan Tiwari

.. Applicant

Versus

State of Maharashtra

.. Respondent

WITH
INTERIM APPLICATION NO.86 OF 2024
IN
CRIMINAL BAIL APPLICATION NO.111 OF 2024
WITH
BAIL APPLICATION NO.1965 OF 2024

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- Ms. Ilsa Shaikh i./by Ms. Priyanka Chavan, Advocate for Applicant.
 - Mr. Y. Y. Dabke, APP for Respondent – State of Maharashtra.
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CORAM : MILIND N. JADHAV, J.

DATE : MAY 10, 2024

P.C.:

1. Heard Ms. Shaikh, learned Advocate for Applicant and Mr. Dabke, learned Additional Public Prosecutor (for short 'APP') for Respondent – State of Maharashtra.

2. The present Bail Application is filed in respect of crime registered under CR No.565 of 2021 by Nehru Nagar Police Station under Section 363 of Indian Penal Code, 1860 (for short 'IPC') on 09.11.2021.

3. Supplementary statement is filed on 10.11.2021 i.e. on next day and pursuant thereto Section 364A of IPC has also been added.

4. Ms. Shaikh (appointed holding Advocate on behalf of Ms. Priyanka H. Chavan who is in personal difficulty today as she is outstation) appeared yesterday on behalf of Applicant and has been permitted to appear and represent the Applicant would submit that on 08.11.2021, the First Informant - Inderchand Jivanram Balotia filed a missing First Information Report (for short '**FIR**') of his four year old grandson Bhavesh at about 11:00 pm, *inter alia*, stating that since 7:00 pm. his son had not seen the whereabouts of his grandson who was playing outside his house in the vicinity of the house. She would submit that precursor to the incident happened to be an altercation of First Informant - Inderchand Jivanram Balotia with Applicant who worked for him in his establishment. Four days prior to the incident, Applicant approached First Informant – Inderchand Jivanram Balotia in a drunken state and demanded his outstanding salary which led to the altercation. Though the outstanding salary was paid over to Applicant, it appears that four days thereafter the four year old grandson of first informant went missing on 08.11.2021 in the evening. First Informant - Inderchand Jivanram Balotia lodged the missing complaint at about 11:00 pm. However crime was registered under Section 363 of IPC after the Investigating Authority ascertained the fact through CCTV footage in the vicinity of the place where the grandson was playing and was lured and taken away by the Applicant which footage was captured in the CCTV.

5. First Informant - Inderchand Jivanram Balotia received a telephonic call from Applicant at 06:44 am on the following day i.e. 09.11.2024 from the mobile phone no.9792141527 on his mobile phone No.9820982739 seeking ransom of Rs.50,000/- for returning the grandson to him.

6. The Investigating machinery immediately swung into action on the basis of the call received from the mobile phone used by the Applicant and traced his location to Nashik Road in Maharashtra. On immediately alerting their counterparts in Nashik Road, Applicant was apprehended on the same day alongwith the grandson of the First Informant - Inderchand Jivanram Balotia in a proper state. On the same date in the evening the grandson was reunited with his family and the First Informant.

7. Ms. Shaikh would candidly submit that the aforesaid facts may prove to establish the role of the Applicant, however considering the fact that the charge has been framed and the impending trial and long incarceration of Applicant having him languishing in custody since 09.11.2021 i.e. for period of three and half years, this Court should consider enlarging the Applicant on bail by imposing appropriate and strict conditions.

8. Mr. Dabke, learned APP for Respondent – State of Maharashtra would draw my attention to the fact that the Applicant

had a motive in view of the precursor incident which occurred four days prior to the actual incident of kidnapping and in view of having been identified in the CCTV footage, the same stands proved. He would next submit that receiving the phone call from the mobile handset by Applicant has also stood proven. Though Ms. Shaikh at this juncture would interject and submit that the CDR filed on record does not establish this fact that it was the phone number belonging to the Applicant.

9. Mr. Dabke would however submit that the phone handset and phone number used by Applicant may possibly be of some other person. He would draw my attention to the charge-sheet at page No.30 of the Application and after reading the statement of the Investigating Officer would draw my attention to the statement of the Police Officer from Nashik Road Police Station who arrested the Applicant wherein it is stated that after analysing CDR and tracing location of the Applicant he was apprehended and the phone handset and sim card from which the phone was received by First Informant - Inderchand Jivanram Balotia was seized. Panchnama in that regard is at page No.39 of the Application.

10. I have also perused the Application made by the Applicant received through jail and it shows that Applicant himself has a four year old daughter and an ailing widowed father who are dependent on

him. Applicant also belongs to the lower middle class family and is apparently the sole bread winner of the family. Since I am informed by Ms. Shaikh and Mr. Dabke that charge has already been framed, the learned Trial Court is directed by this Court to expedite the trial and decide the same as expeditiously as possible in accordance with law.

11. In view of the above observations and findings, the Applicant is enlarged on bail given his personal liberty since Applicant is confined in custody since 09.11.2021 subject to the following conditions. Hence, the following order:-

- (i) Applicant – Rampal Udaybhan Tiwari, who is facing trial in Sessions Case No.180 of 2022 pending on the file of Additional Sessions Judge, City Civil & Sessions Court, Greater Bombay, is ordered to be released on bail in the sum of Rs.15,000/- (Rs. Fifteen Thousand only) with one or two sureties of the like amount;
- (ii) Applicant shall report to the Nehru Nagar Police Station, Mumbai once every month on the first Monday of the month between 11:00 a.m. to 02:00 p.m.; Applicant is prohibited from entering the jurisdiction of Nehru Nagar Police Station except for reporting until the trial is concluded

- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (v) Applicant shall not influence the witnesses or tamper with the evidence in any manner;
- (vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time, as applicable.

12. The above observations are *prima facie* and should not be construed as an expression of any opinion and are made only for the purpose of bail and the same shall not influence the trial in any manner whatsoever.

13. Bail Application No.111 of 2024 and Bail Application No.1965 of 2024 alongwith Interim Application No.86 of 2024 are disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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