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

BAIL APPLICATION NO.2532 OF 2023

KUNAL VISHNU KOT

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Mayuri D. Hatle for the applicant.

Ms. Megha S. Bajoria, APP for the State.

API Devidas Dhole, Mahatma Phule Chowk Police Station,
Kalyan.

CORAM : M. S. KARNIK, J.

DATE : MARCH 13, 2024

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail in respect of the offence
punishable under Sections 363, 370(4), 34 of the Indian
Penal Code (hereafter 'IPC' for short) registered on
06.06.2021 vide C.R. No.I-438 of 2021 with Mahatma Phule
Chowk Police Station, Kalyan.

3. The applicant is the accused No.2. The applicant was
arrested on 08.06.2021. The complainant is Mrs. 'S'. She
was residing on the roadside along with her six kids. It is

alleged that on 05.06.2021 when she was sleeping at 10.00 p.m. along with her children at around 01.00 a.m. she noticed that her younger son Jiva is missing. The allegation is that the accused No.1 and the present applicant kidnapped the child. The material against the applicant is in the form of CCTV footage and the statement of the auto-rickshaw driver in whose auto-rickshaw they went to the house of accused No.4 who is the wife of accused No.2 where the child was kept. The statement of the owner of the house was also recorded.

4. The application is vehemently opposed by learned APP. She submitted that the offence is serious and the materials on record do demonstrate that the allegations make out a case under Section 363, 370 of the IPC.

5. There are no criminal antecedents reported against the applicant. So far as the offence under Section 363 of the IPC is concerned, the maximum period prescribed is imprisonment upto seven years and fine. Prima facie there is no material in respect of the accusation under Section 370 of the IPC so far as the applicant is concerned. These

observations are of course prima facie and shall not influence the trial Court. The investigation is complete. The charge-sheet has been filed. Considering that the applicant is in pre-trial custody for two years and nine months with no possibility of the trial concluding any time soon, any further incarceration can only be by way of a pre-trial punishment. I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Kunal Vishnu Kot in connection with C.R. No.I-438 of 2021 registered with Mahatma Phule Chowk Police Station, Kalyan, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Mahatma Phule Chowk Police Station, Kalyan twice a month i.e. on 1st and 3rd Friday of every month between 11.00 a.m. and 1.00 p.m., commencing April, 2024 till the conclusion of the trial.
- (d) 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. The applicant shall not tamper with evidence.

(e) 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.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)