

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.181 OF 2024

Farhana Kurban Shaikh	...	Applicant
versus		
State of Maharashtra	...	Respondent

Mr. Hussain Shaikh, for Applicant.
Mr. Prashant Jadhav, APP for State.

CORAM: N.J.JAMADAR, J.
DATE : 12th JUNE, 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 co-accused Parandam Gundenti (A2) and Raju Nakka (A3) had entered into a conspiracy to steal a child and sell the same to Rajarao(A4). In pursuance of the said conspiracy, on the night, intervening 31st August 2021 and 1st September 2021, the applicant, who had befriended the first informant, took away her 10 month old child, without the consent of the first informant, while they were sleeping on a footpath below the bridge near Mahim Causeway. The applicant allegedly delivered the child to Parandam

Gudenti (A2). Eventually, the child was allegedly sold to Rajarao (A4).

4. The learned Counsel for the applicant submitted that co-accused Parandam Gudenti (A2) and Raju Nakka (A3) have been granted bail by this Court by an order dated 21st February, 2024 and 30th January, 2024, respectively, and Rajarao(A4), who had allegedly purchased the child, was released on bail by the Supreme Court. Though the applicant had allegedly kidnapped the child, the role attributed to Parandam Gudenti (A2) is more grave as the latter had entered into a conspiracy to sell the child. It was further submitted that the applicant has been in custody since 3rd September, 2021. Therefore, the applicant be released on bail.

5. Learned APP resisted the prayer for bail. It was submitted that the applicant was the principal offender. She had kidnapped the child. A sum of Rs.1,50,000/- was recovered at the instance of the applicant. Therefore, the applicant does not deserve to be released on bail.

6. While releasing the co-accused Raju Nakka on bail, this Court has, *inter alia*, observed as under :

“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 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.”

7. This Court was of the view that the aforesaid reasons applied with equal force to the case of Raju Nakka (A3) and, therefore, Raju Nakka (A3) was also released on bail.

8. Prima facie, there is material to indicate that he applicant had initially kidnapped the child. However, the applicant has been in custody since 3rd September, 2021. It is unlikely that the trial can be completed within a reasonable period. All the co-accused have been released on bail. The applicant is a woman.

9. The learned APP on instructions submits that the applicant has no antecedents.

10. In view of the above, especially having regard to the period of incarceration and the possibility of expeditious trial being remote, I am inclined to exercise discretion in favour of the applicant.

Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Farhana Kurban Shaikh 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 her 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 her 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.)