

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

BAIL APPLICATION NO. 4801 OF 2024

Santosh Shivaji Dhumale ...Applicant

Versus

State of Maharashtra ...Respondent

Mr. Siddharth Sutaria, a/w Suyash Khose, i/b Sangram
Jadhav, for the Applicant.

Mr. H. J. Dedhia, APP for the State/Respondent.

PSI Ghag, Azad Maidan Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 4th DECEMBER, 2024

ORDER:-

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

2. The applicant, who is arraigned in CR No.730 of 2022, registered with Azad Maidan Police Station, Mumbai, for the offences punishable under Sections 363, 370(1)(4) read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code") and Section 84 of the Juvenile Justice (Care and Protection of Children) Act, 2015, seeks to be enlarged on bail.

3. At the outset, the learned Counsel for the applicant submits that Mohammad Hanif Mohammad Iqbal Memon (A1), who had allegedly kidnapped the child, has been enlarged on bail by an order dated 8th April, 2024. The role attributed to the

applicant is that of having received the photographs of the child forwarded by Afreen (A2), the wife of Mohammad Hanif (A1). Afreen (A2) has also been enlarged on bail.

4. The learned APP fairly submitted that the principle of parity applies. The role attributed to the applicant is relatively minor.

5. While releasing Mohammad Hanif (A1), this Court had observed as under:

“6. Prima facie there is material to show that the applicant had taken away the child. It further appears that the photograph of the child was shared by accused Nos. 2 and 3. However, in the circumstances of the case, whether an offence punishable under section 370 of the Penal Code can be said to have been made out appears to be debatable as it would be a matter for trial as to whether the child was kidnapped for the purpose of exploitation. The applicant was apprehended purportedly along with the child on the day of the alleged kidnapping. It does not appear that the applicant had sold the child to any person. At best, a case of attempt to sell the child can be said to have been prima facie made out.”

6. In view of the aforesaid reasons and relatively minor role attributed to the applicant, the applicant deserves to be enlarged on bail.

7. Hence the following order:

: O R D E R :

(i) Application stands allowed.

- (ii) The applicant, Santosh Shivaji Dhumale, be released on bail in CR No.730 of 2022, registered with Azad Maidan Police Station, Mumbai, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend Azad Maidan Police Station, Mumbai, on the first Monday of every month between 11.00 am. to 1.00 pm. for a period of two years or till conclusion of the trial, whichever is earlier.
- (iv) The applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.
- (v) 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 to the consideration 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 co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

[N. J. JAMADAR, J.]