



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (BA) NO.97/2024

Musahib Nasir Shaikh

..VS..

**State of Mah., thr.PSO Rajapeth Police Station, Taluka and District
Amravati**

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri M.Badar, Counsel for the Applicant.
Shri Amit Chutke, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 21/02/2024

PRONOUNCED ON : 26/02/2024

1. The applicant came to be arrested on 20.2.2021 in connection with Crime No.148/2021 registered with the non-applicant police station for offences punishable under Sections 363, 363-A, 120, 212 and 201 read with 34 of the Indian Penal Code read with 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and, therefore, he seeks regular bail by this application under Section 439 of the Code of Criminal Procedure.

2. Heard learned counsel Shri M.Badar for the applicant and learned Additional Public Prosecutor Shri Amit Chutke for the State.

3. The accusations against the applicant are on the basis of report lodged by Mahendra Shriramji Watankar alleging

that on 17.2.2021, at about 8:00 pm, child Nayan Mukesh Luniya aged four 4 years was kidnapped by one lady and another accused in presence of his grandmother. During investigation, whereabouts of the child were traced and the child was found at Ahmednagar and handed over to his father Mukesh Luniya. It is further alleged that grandmother of the child hatched the conspiracy with the co-accused and kidnapped the child for ransom. Insofar as the applicant is concerned, from chargesheet it revealed that he is from Ahmednagar, came to Amravati on 12.2.2021, and stayed in a lodge at Amravati. The presence of the applicant was noticed by witnesses namely Manoj Jeseekar and Amit Mundada at "Welcome Tea Point", Amravati. The presence of the applicant was also seen from CCTV footage.

4. Learned counsel for the applicant submitted that as far as the applicant is concerned, the prosecution case is rested on circumstantial evidence. It is not the prosecution case that the applicant kidnapped and took the child from Amravati to Ahmednagar. Thus, there is no evidence against the applicant to connect him with the alleged offence. Now, trial is already commenced and during evidence, witnesses namely Amit Mundada and Manoj Jeseekar have not supported the prosecution case. As such, the applicant be released on bail.

5. Learned Additional Public Prosecutor for the State strongly opposed the application on ground that during investigation, it revealed that the grandmother of the child along with the co-accused hatched the conspiracy and abducted the child. Ransom amount Rs.5.00 crores was demanded from an uncle of the child. Co-accused Monika Luniya was in contact with the applicant and other co-accused. Accordingly, the applicant came to Amravati on 12.2.2021 by his Car viz. "Indica Vista" bearing registration No.MH-15-CT/4902 and stayed in a lodged. During investigation of the said car, one bill issued by "Abdulla Lodge" was seized. The investigating agency also seized customary entry register of the lodge which also shows that the applicant along with co-accused stayed in the said lodge. Co-accused Asif Shaikh came to Amravati on motorcycle of the applicant and after abduction of the child, the applicant along with co-accused left Amravati in Car bearing No.MH-13-AX/1895. Thus, there is a sufficient material collected during investigation to show involvement of the applicant with the alleged offence.

6. Having heard learned counsel for the applicant and learned Additional Public Prosecutor for the State, it revealed that that co-accused Monika @ Priya hatched conspiracy and in pursuance of the said conspiracy with the help of co-accused viz. Heena @ Sapna Deshpande and Sapna Deshpande

kidnapped the child and demand Rs.5.00 crores was made telephonically to uncle of the child. During investigation, it revealed that on 12.2.2021 the applicant and other co-accused reached Amravati and stayed at "Abdulla Lodge". The applicant was also witnessed by two witnesses at "Welcome Tea Point". The investigation agency seized "Tata Indica Car" from which a bill of "Abdulla Lodge" was seized. During investigation, extract of the register of the lodge was also seized. It further revealed that on 16.2.2021 the child in conflict with law and co-accused Asif Shaikh came to Amravati on motorcycle of the applicant and other co-accused, Heena, Wasim Shaikh, and others came in "ETIOS Car" and reached "Welcome Tea Point". After kidnapping the child, he was taken to Ahmednagar. The applicant left Amravati following the other co-accused. Investigating agency also seized "ETIOS Car" used by the applicant. The statements of witnesses show that the applicant left Amravati in the said car. The statement of the driver who was driving the "ETIOS Car" also shows involvement of the applicant. After the incident, the applicant along with the child in conflict with law was proceeding on motorcycle. The statement of employee of "Ambadeep Petrol Pump" substantiates the said fact. On 18.2.2021, the co-accused called uncle of the child and demanded ransom amount. The CDR and HDR and tower location of mobile phone also show their

presence at Amravati and continuous communications of the applicant with co-accused Asif Shaikh and others.

7. The applicant is also identified by witnesses during test identification parade. Though some witnesses have not supported the prosecution, circumstantial evidence shows connection of the applicant with the alleged offence.

8. The criminal antecedents against the applicant show that he is involved in crimes like theft.

9. Now, the trial is already commenced and would be concluded in a near future.

10. Considering *prima facie* case and the nature of the offence, which is serious in nature, no case is made out to grant bail. As such, the application deserves to be rejected and the same is **rejected**.

The application stands **disposed** of.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!