Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3448 OF 2024

Alamgir Alimuddin Malik … Applicant

V/s.

The State of Maharashtra … Respondent

Mr. Tapan Thatte a/w MR. Zahir Mulla with Mr. Mohammad S. Mulla for the Applicant.

Ms. Supriya I. Kak, APP for the State – respondent.

Mr. Dhotre, API, DCB CID, Mumbai.

CORAM : AMIT BORKAR, J.

DATED : JULY 11, 2025

P.C.:

1. This is an application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No.73 of 2023 registered with DCB CID, Mumbai. The applicant stands charged with serious and grave offences punishable under Sections 307, 364(A), 384, and 120(B) of the Indian Penal Code, 1860. In addition, provisions of Sections 3(1)(ii), 3(2), and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOCA), Sections 4 and 25 of the Arms Act, 1959, and Sections 37(1)(a) read with 135 of the Maharashtra Police Act have also been invoked against him.

2. As per the case of the prosecution, the incident occurred on 23rd November 2023, around 9:50 p.m., near Mazgaon Circle, Chapsi Road, Mumbai. The father of the first informant was allegedly abducted by one Ilyas Bachkana and his associates. Soon after, the informant received a WhatsApp video call in which the abductors demanded a ransom amount of ₹10 lakhs in exchange for the safe release of his father. Shocked and terrified, the informant approached the Byculla Police Station and lodged a complaint on 24th November 2023, resulting in the registration of the present crime.

3. During the investigation, on the same date i.e. 24th November 2023, one unknown person is reported to have visited the house of a relative of the victim and made a phone call to accused Mohd. Ilyas Khan @ Ilyas Bachkana using the mobile phone of the said relative. The CCTV footage collected by the investigating agency revealed that around 8:49 a.m. that morning, two individuals were seen moving suspiciously in the vicinity. These persons were later identified as accused No.1 – Wajid Yain Shaikh and accused No.2 – Karim Wajid Khan, who were taken into custody the very same day.

4. The investigation further disclosed that the victim had been illegally detained in the residential premises of the present applicant, who is arrayed as accused No.3. Upon discovery of this fact, the applicant was also arrested. It also came to light that accused No.5 – Naushad Akbar Ali Shaikh – played an active role in keeping a close watch over the victim during the period of his illegal confinement. He too was later arrested.

5. According to prosecution, the investigation, at this prima facie stage, reveals the active involvement of accused Nos. 3 and 5, including the applicant, in the planning and execution of the offence which is not only grave in nature but strikes at the core of public safety. With prior approval as required under MCOCA, the investigation was taken over by the Anti-Extortion Cell of DCB CID, Mumbai. Accordingly, the offence was re-registered under Sections 364-A, 384, and 120-B of the IPC, apart from the earlier invoked provisions. Pursuant to the arrest of the accused persons, mobile phones and other incriminating articles have been recovered. The extortion demand made by threatening the victim's son while illegally confining his father clearly suggests the presence of an organised criminal conspiracy.

6. It is further brought on record that the victim was admitted to Sir J.J. Hospital on 24th November 2023. Two days later, on 26th November 2023, his detailed statement was recorded by the Investigating Officer, wherein the victim narrated the entire chain of events – right from the time of his abduction to the physical torture and threats he faced at the hands of the accused. During investigation, weapons allegedly used for assaulting the victim and the vehicle used in the abduction were seized. Significantly, it is also revealed that the vehicle was later found abandoned at the same location from where the victim had been abducted, which, on the face of it, appears to be a calculated move to mislead the investigation.

7. According to prosecution, the material gathered so far indicates that the applicant, accused No.3, was not only in constant contact with co-accused No.4 and others, but he also facilitated and provided shelter to them in his premises which is situated in a secluded area, evidently to avoid detection. The premises were used to unlawfully confine the victim and carry out the crime. The gravity of the assault inflicted on the victim and the nature of injuries sustained indicate that the accused persons intended to cause fatal harm. Prima facie, the applicant appears to be an active member of a larger organised crime syndicate. It further appears from the record that the applicant had earlier approached the learned Sessions Court for bail, but his application was rejected after considering the material against him. Being aggrieved by the said order, the present application is filed before this Court.

8. Learned Advocate appearing for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case. It is argued that the applicant was not involved in the conspiracy nor did he share any common intention with the co-accused persons in abducting the victim or demanding ransom. It is further submitted that there is no direct material or evidence on record to suggest that the applicant participated in the planning or execution of the offence. The only allegation against the applicant, as per the prosecution, is that he handed over a pen and paper to the victim, which was done on the direction of the co-accused. According to the learned Advocate, such an act, by itself, does not amount to active participation or make out a case under Section 364-A of the IPC. Moreover, it is submitted that the applicant has no criminal antecedents and has roots in society. It is therefore prayed that the applicant be released on regular bail, subject to suitable conditions.

9. Per contra, learned APP has strongly opposed the bail application and submitted that the material on record clearly reflects the applicant's active involvement in the entire incident. It is pointed out that accused Nos. 1 and 2 had taken the victim to a room, where the applicant and another person were already present. At that point, co-accused Ilyas asked the present applicant to bring pen and paper, which the applicant did, and the same was used by the victim to write the ransom note. This act cannot be considered as a mere formality, but must be seen in the background of the larger conspiracy involving kidnapping for ransom.

10. It is further submitted that the vehicle used for abducting the victim was later returned to its owner by none other than the present applicant. The Call Detail Records (CDRs) collected during the investigation show that the applicant was in regular contact with other accused persons, both before and after the incident. The most significant aspect, as highlighted by the prosecution, is that the victim was kept confined in the premises belonging to the present applicant, indicating that the applicant knowingly facilitated the illegal detention.

11. Additionally, the vehicle used in the abduction was recovered at the instance of the present applicant under a panchnama recorded under Section 27 of the Evidence Act, and upon forensic examination, bloodstains were found in the said vehicle. It is further revealed that the applicant was in constant telephonic contact with accused No.4, which further supports the prosecution’s case regarding the applicant’s involvement as part of an organised criminal gang.

12. The learned APP, therefore, argued that considering the seriousness of the offence, the manner in which the crime was committed, and the specific role played by the applicant in facilitating and furthering the object of the conspiracy, this is not a fit case to grant bail. It is submitted that Section 364-A of the IPC read with the provisions of MCOCA squarely apply, and the applicant’s release at this stage would seriously hamper the ongoing investigation and may also affect the safety of the witnesses. Hence, the application deserves to be rejected.

13. I have carefully considered the submissions made by the learned Advocate for the applicant and the learned APP for the prosecution. I have also gone through the material placed on record by the investigating agency. The offence in question is extremely serious in nature. It involves not only the abduction of a person but also unlawful confinement, physical assault, and demand of ransom, which strikes at the very root of public safety and peace.

14. The investigation conducted so far has revealed that the victim was illegally confined in a room situated within the premises belonging to the present applicant. This fact is not disputed and has been corroborated by witness statements and other material on record. Such a role of providing premises for illegal confinement, in a case of kidnapping for ransom, cannot be treated lightly.

15. Further, the prosecution case reveals that during the period of illegal confinement, the co-accused directed the present applicant to bring pen and paper, which was then used for writing the ransom demand. Though the learned counsel for the applicant has attempted to portray this act as a trivial or clerical gesture having no connection with the core offence, such a view cannot be accepted. In criminal law, particularly in cases of conspiracy and organised crime, even seemingly small acts, when connected with the chain of criminal events, assume serious significance.

16. The present act of the applicant in providing pen and paper, which ultimately facilitated the ransom note, cannot be viewed in isolation or detached from the broader conspiracy. The act was not accidental or unintentional, it was performed in furtherance of the main objective of the conspiracy, namely, to extract money by threatening and detaining the victim unlawfully. The law recognizes that even facilitative acts committed knowingly and in coordination with the main conspirators can amount to active participation.

17. The prosecution has heavily relied upon the recovery of the vehicle allegedly used in the commission of the offence. This vehicle was recovered at the instance of the present applicant under a panchnama recorded as per Section 27 of the Indian Evidence Act. The significance of such recovery cannot be overlooked, especially when the forensic report confirms the presence of bloodstains in the said vehicle. This fact, on its own, strongly connects the applicant to the core of the offence. It is not the case of the applicant that the vehicle was unknowingly or casually used by some other accused. Rather, the recovery at his instance and the forensic evidence indicating signs of violence clearly show that the vehicle was actively used in the abduction and possible assault of the victim.

18. Moreover, the CDRs gathered during the course of investigation show that the applicant was in regular and consistent contact with the main accused, both prior to and after the occurrence of the crime. The pattern of telephonic communication establishes that the applicant was not an outsider to the chain of events. On the contrary, his involvement appears to be integral and in furtherance of the larger conspiracy.

19. Taken together, these circumstances prima facie suggest that the applicant was not merely a passive onlooker or an innocent bystander. On the contrary, he played a facilitating and enabling role in the execution of the criminal act of abduction for ransom. The shelter provided to the co-accused, recovery of the vehicle, presence of bloodstains, and telephonic communication all indicate active participation.

20. The material gathered during the investigation also shows that the offence was not an isolated incident committed on the spur of the moment, but rather forms part of a planned and coordinated activity by a group of individuals working together. This element of continuity, association, and common purpose is one of the essential ingredients under the MCOCA. The prosecution has prima facie made out a case that the offence was committed as part of an organised crime syndicate and the applicant was one of its participants. Hence, the rigours of Section 21(4) of MCOCA will also apply while considering the bail plea.

21. The material on record prima facie shows that the applicant was not only aware of the conspiracy but had actively participated in it by providing premises for the unlawful confinement of the victim and carrying out instructions of the co-accused. The recovery of the vehicle used in the offence at the instance of the applicant, and the presence of bloodstains therein, further strengthen the prosecution's version. The CDRs also indicate consistent communication between the applicant and the co-accused before and after the commission of the offence.

22. Given the gravity of the allegations under Section 364-A of the IPC and the invocation of the MCOCA, the bar for granting bail becomes even stricter. The law requires that the Court must be satisfied that the accused is not guilty of the alleged offence and is not likely to commit any further offence while on bail.

23. The possibility of tampering with evidence, influencing or threatening witnesses, or even destroying links of the wider organised crime syndicate, cannot be ruled out if the applicant is released. In offences of this nature, protecting the integrity of the investigation is of paramount importance.

24. Therefore, taking into account all relevant aspects, including the seriousness of the offence, the potential threat to the fair course of justice, and the larger public interest, this Court is not inclined to exercise its discretion in favour of the applicant.

25. The application for bail is therefore rejected.

(AMIT BORKAR, J.)