

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3964 of 2025**

Divyanshu M Vishwakarma ...Applicant
Versus
State of Maharashtra _____ ...Respondent

Mr. Prashant Pandey *a/w Ridhima Mangaonkar, Dinesh Jadhvani and Sumati Gupta i/b W3LEGAL LLP for the Applicant.*

Ms. Manisha R. Tidke, *APP for the State-Respondent.*

CORAM Dr. Neela Gokhale, J.
DATED: 16th October 2025

PC:-

1. By way of this application, the Applicant seeks his release on bail in connection with CR No. 30 of 2021 dated 24th January 2021, registered with Malad Police Station for the offences punishable under Sections 363, 364-A read with 34 of the Indian Penal Code, 1860 (for short 'IPC').

2. The facts of the case, in brief, are that on a complaint made by one Vipul Nathwani i.e. the father of the abducted child, the present Applicant, along with co-accused one

Shekhar alias Akash was arrested on 24th January 2021. It is alleged that the co-accused namely Akash lured the child-victim to sit in a *Rickshaw* on a false pretext and abducted the child. He asked the present Applicant to walk with the child in the park. Accordingly, the Applicant was walking with the child in the park, when he was apprehended by the police. It is also the case of the prosecution that a ransom call was made by said Akash to the father of the child i.e. the complainant herein and an amount of Rs. 10 Lakh was demanded for the safe return of the child. The role of the present Applicant is alleged as (i) that he accompanied the child and kept him busy in the park and (ii) the Applicant was present with the main accused Akash, at the time of making the ransom call to the child's father. On the basis of these allegations, the FIR was registered against the Applicant.

3. The Applicant made an application seeking bail before the Additional Sessions Judge, City Civil and Sessions Court, Dindoshi, Mumbai. However, on 15th March 2022, the bail

application was rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. At the very outset, Mr. Prashant Pandey, learned Counsel for the Applicant, made a grievance that the Applicant being arrested in January 2021, was not produced before the Trial Court on as many as 85 dates. For the very first time, he was produced before the Trial Court on 27th June 2024, when the charges were framed. He relies on a decision of this Court in the matter of *Gaurav Bandu Patil Vs. State of Maharashtra and Anr.*¹ dated 19th April 2024, wherein only on the ground that the accused was not produced before the Court, the learned Single Judge enlarged the said accused on the bail. He also placed before me a decision of the Supreme Court in the matter of *Siddhant @ Sidharth Balu Taktode Vs. The State of Maharashtra and Anr.*² wherein, the Supreme Court observed that long incarceration without framing charges amounts to imposing a sentence without a trial. Mr. Pandey further

1 2024 SCC OnLine Bom 1258

2 2024 SCC OnLine SC 3798

submits that the role of the present Applicant is restricted to keeping the child busy in the park. He further submits that there are no antecedents in respect of the present Applicant and hence, prays that the Applicant be released on bail.

5. Ms. Manisha Tidke, learned APP, contests the bail application and states that the offence is serious. She further submits that the grievance of the Applicant will be addressed if the Jail Authorities are directed to produce the Applicant before the Trial Court on every date. On merits, she submits that the Applicant was very much present along with Akash at the time of making the ransom call and he is as much complicit in the offence as much as the main accused. She also submits that the role of the present Applicant extends to him accompanying the main accused in a Rickshaw when Akash had abducted the child. She further submits that the delay in the trial is caused by the Counsel of the Applicant appearing before the Trial Court, as he remained absent on as

many as seven dates. She thus prays that the application be rejected.

6. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

7. A plain reading of the FIR as well as the statement of the abducted child reveals that the role of the present Applicant is restricted to keeping the child busy in the park. No doubt that the Applicant appears to have been present, when the ransom call was made by Akash, but he has already suffered incarceration for as much as four years and ten months. The charges are framed only on 27th June 2024 and the Applicant was not produced before the Trial Court on 85 dates. Be that as it may, there is no material on record to indicate that the Applicant was complicit in the plan of abducting the child and it is only the fact that he was present when the main accused made the call to the father, which is the basis for implication of the present Applicant.

8. I have also perused the medical documents of the Applicant's mother. It appears that the Applicant's mother intermittently suffers from schizophrenic episodes. The Applicant is 24 years of age and suffers from a Slow Learner Syndrome. It is clear that the role attributed to the present Applicant is quite distinct from the main accused inasmuch as the Main accused was involved in the planning and execution of the abduction plan. In these circumstances, I am inclined to enlarge the Applicant on bail and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.15,000/- with one or two local sureties in the like amount;
- ii) The Applicant is permitted to furnish provisional cash bail of Rs.15,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.15,000/- within a period of four weeks after

his release, which shall be accepted by the Trial Court. The Applicant shall provide the sureties as directed;

iii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court;

iv) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if he has any;

v) The Applicant shall not leave India, without permission of the trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from

time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

viii) The Applicant to co-operate with the conduct of the trial;

ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. Application is allowed in the above terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)