


MHKO010007322025 	<b>ORDER PASSED BELOW EXH.4 IN SESSIONS CASE <u>NO. 43/2025</u></b>
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1] This is bail application filed by accused No.1 Santosh Suresh Mali and No.2 Prathmesh Satish Shinge u/s.43 of B.N.S.S. for grant of bail in respect of C.R. No.702/2024 registered at Rajarampuri police station U/s. 137(2), 140(1), 140(3), 351(3), 3(5) of the Bhartiya Nyaya Sanhita, 2023.

2] **The prosecution case in short is as under : -**

The informant – Sou. Nakusha Kumar Chavan lodged complaint to police station Rajarampuri on 3-12-2024. As per her complaint, she is residing at Nipani with her husband Kumar, daughter Kayal having age 5 years and other family members. Her sister Priyanka is married with the accused No.1 Santosh Suresh Mali before five years. Her another sister Arati resides at Shahunagar, Kolhapur. The accused Santosh used to beat Priyanka by taking doubt about her character. On 28-11-2024 the informant came to Kolhapur at her parents with her daughter Payal. She came to know that Santosh beat Priyanka on 25-11-2024 and 26-11-2024 due to which Priyanka left home without saying anything to anyone and missing complaint is filed by informant's mother Sushila on 29-11-2024. On 3-12-2024 at 3.30 p.m. informant went to his sister Arati to bring the gas cylinder. That time, accused Santosh Mali

was present there alongwith his friend Prathmesh Shinge. The accused Santosh asked the informant where is his wife Priyanka and alleged that they all have suppressed her and he threatened her. That time Santosh Mali snatched the informant's daughter Payal from her and asked Prathmesh to start the motorcycle and they went on motorcycle by taking Payal with them. The informant then came to police station and registered the complaint. On its basis aforesaid crime for offence U/s. 137(2), 140(3), 351(3), 3(5) of Bhartiya Nyaya Sanhita, 2023 came to be registered. The inquiry was started. Then girl Payal and accused were found on 5-12-2024. Then the inquiry with the child was made and she stated that she was taken by the accused on his motorcycle at Nipani. It was revealed in investigation that the accused had taken the victim on motorcycle driven by Prathmesh Shinge at Tavandi Ghat. The accused left Santosh left Prathmesh and proceeded on motorcycle. Then they both were traced and brought to police station. Subsequently in statement of Sharada Salunkhe she disclosed that the accused Santosh had given threats that he will kill Payal. So section 140(1) of BNSS was added in the crime. Both the accused were also arrested. After completion of investigation, the chargeheet came to be filed and then it is committed to this Court.

3] The accused persons by this application sought bail on different grounds as mentioned in the application. The IO and APP in reply opposed application and contended that the accused Nos.1 and 2 are previously engaged in different crimes and the list is

given in the say. The accused had kidnapped the victim girl by giving threats that he will kill her. The accused may repeat the incident, there is fear to the life of the informant, her family members and the child, may repeat the incident, may pressurize and threaten the witnesses. Accordingly bail is opposed.

4] I heard submissions of learned advocate Mr. A.A. Mahadik for the applicant and learned APP Mrs. P.J. Jadhav for the State. Perused the papers.

5] The learned advocate for the accused persons submitted that what allegations made are about kidnapping of the minor. There was no intention on the part of the accused to kidnap the child, the wife of accused No.1 though left home, she was not found and due to it the accused was disturbed, he had been to the house of Payal and that time the informant came there. What is shown that the accused Santosh had taken child on motorcycle with Prathmesh and took her towards Nipani. It appears that he was taking the child at her own house at Nipani. He submitted that the statemnet of the minor Payal is to the effect that the accused had taken her on motorcycle, near Toll naka the accused had taken sweater and scarf and provided food to her and then police came there and took them. As per his submission, in fact the accused had not intention to kill the child but he had taken her care by providing sweater and scarf and by providing food to her. As per his submission, when the police made phone call to him, he

stopped at Tavandi Ghat and if he had intention to kidnap, he would not stop there. On this count, he submitted that no case of kidnapping for ransom or for murder of the minor is made out against the accused persons. Accordingly he prayed for bail to the accused persons.

6] On the other hand, the learned APP submitted that the accused had not reason to take the minor, to take her with him. The accused No.2 was associated with him and both had taken the minor with them, the threats were given by the accused No.1 that he will kill the child, which shows that the kidnapping for purpose of murder. It is submitted that there is big list of different crimes already registered against the accused and if this is so, it shows his criminal tendency and there is every possibility of repetition of incident and threats to the witnesses. Accordingly the bail is opposed.

7] The informant, accused No.1, informant's sister all are relatives. The wife of accused No.1 had left home. Her statement is shown recorded and as per her statement, there was quarrel between her and accused Santosh on 26-11-2024 and under passion of anger, she left home, came to her friend residing at Kanannagar, Kolhapur. On 11-12-2024, she came to know that missing complaint about her is filed by her mother. So she appeared before the police. It appears that due to the quarrel between the accused No.1 and his wife, further things are shown

happened. Now what exactly happened when informant went to the house of her sister and for what reason the accused No.1 had come there with his friend is not disclosed by any of the witnesses. It is contention from accused side that the accused had come to Payal/Aarati for making inquiry about his wife and to trace her.

8] The list of different crimes, which are shown registered against the accused is given and those are offence against bodily injury etc. One crime is also registered against accused No.2 U/s. 302, 307 of Indian Penal Code. The role of the accused No.2 is to the extent that on say of accused No.1 he had taken minor on motorcycle. It appears that when police asked them to stop and not to proceed, they stopped. The material allegation regarding kidnapping for ransom or murder of minor, there is no such statement. Considering all the circumstances on record, now the question as to whether it was a kidnapping for murder of minor or for other reason will have to be determined in due course of time. Considering all the circumstances on record, the fact that the investigation is over and chargeheet is now filed, the accused will entitle for bail but on terms and conditions.

### **ORDER**

1. Application (Exh.4) filed by accused No.1 Santosh Suresh Mali and No.2 Prathmesh Satish Shinge for grant of bail in respect of C.R. No.702/2024 registered at Rajarampuri police station U/s. 137(2), 140(1), 140(3), 351(3), 3(5) of the Bhartiya Nyaya Sanhita, 2023 is allowed.

2. The accused No.1 Santosh Suresh Mali and No.2 Prathmesh Satish Shinge in respect of C.R. No.702/2024 registered at Rajarampuri police station U/s. 137(2), 140(1), 140(3), 351(3), 3(5) of the Bhartiya Nyaya Sanhita, 2023 be released on their furnishing PB and SB of Rs.20,000/- each with one surety of like amount.

3. The accused persons shall attend the Court proceeding regularly, unless exempted.

4. The accused persons shall not threaten and pressurize the informant and witnesses in any manner and shall not tamper the evidence.

5. The breach of any of the condition will cause for the prosecution to apply for cancellation of bail.

Date - 21-03-2025  
Kolhapur.

**(S. P. Gondhalekar)**  
Additional Sessions Judge,  
Kolhapur.