

Order passed below Exh.26

(CNR NO.MHSN040009292019)

(State vs Sunil Kadam and others)

This application is filed by applicant/accused Vijay Rajaram Shingare for grant of bail under Section 439 of the Code of Criminal Procedure in crime No.439/2019 registered at Islampur Police Station, District Sangli, for the offences punishable under Sections 363, 364-A, 365, 120B r/w 34 of the Indian Penal Code on 04-06-2019 on the report of Balaso Dhondiba Khamkar. Present applicant/accused Vijay was arrested on 27-01-2020. After grant of PCR, he is now in MCR. This is the second bail application of the applicant/accused.

2. It is the case of prosecution that present applicant/accused along with other co-accused had conspired to kidnap Waradraj Balaso Khamkar for demanding ransom and hatched criminal conspiracy and kidnapped Waradraj from the tuition class and thereafter they had hidden Waradraj. Report was filed by complainant on 04-06-2019 at about 00.03 hours about kidnapping of Waradraj. Accordingly, investigation was initiated and during inquiry it was revealed that accused Sunil Kadam along with present applicant/accused had hatched conspiracy and kidnapped the son of complainant and had taken him to various places. During investigation victim was traced out and after recording statements of victim Waradraj, present applicant/accused along with another co-accused, were made accused in the present crime.

3. It is the case of applicant/accused that he is innocent and

he has not played any role in kidnapping the victim. There is no direct or circumstantial evidence against the applicant, after going through the statement of Waradraj he has stated presence of only four persons. The statements of co-accused are not admissible, the statement of mother of Waradraj is also silent about the involvement of 5 persons. The description of present accused is not stated by any of the witnesses. Test Identification of accused is not taken. He is law abiding citizen. Police have involved them falsely in the present crime. The applicant/accused never visited to the spot of alleged incident nor he has kidnapped victim in front of tuition class. There is no material to connect present applicant/accused with the present crime. Investigation is now completed. Charge-sheet against present accused is filed. Nothing is remained to be recovered from him. He undertakes not to tamper with the prosecution witnesses nor will abscond anywhere. He will be available for trial. If applicant/accused is not released on bail, his family will be put to starvation. Considering all these facts, he prayed to release him on bail.

4. Investigating officer has filed reply (Exh.28) and has strongly objected the application for bail and has contended that it is serious offence. During investigation it revealed that applicant and other co-accused had kidnapped the victim for ransom. Present applicant/accused hatched conspiracy along with accused Sunil Kadam who is close relative of complainant for kidnapping victim and demanding ransom. If applicant/accused is released on bail, there will be repetition of crime and there is every possibility of tampering with prosecution witnesses. Present applicant/accused was absconding from the date of the incident and he will again abscond, if

he is released on bail. Therefore, he prayed to reject the application.

5. Heard learned advocate for applicant/accused and learned APP for State. Perused the application and reply, so also charge-sheet.

6. After going through the Panchanama dated 13.06.2019 wherein the CCTV footage was seen which is of the S.T. Canteen, Kolhapur, it appears that on 03.06.2019 at about 12.33.04 HRS the present applicant along with other co-accused are seen. Thereafter at about 5.00 pm the son of the complainant was kidnapped. After going through the CCTV footage of Hotel where the son of the complainant was kept it appears that the other co-accused except the present applicant is not seen. This shows that there is certain sequence of the incident of kidnapping of the son of the complainant. It is not disputed fact that after kidnapping in the CCTV footage present accused is not seen. But in my considered view at this stage, though the present applicant is not seen in CCTV footage after kidnapping of the victim child, it cannot be concluded prima-facie that the accused was not the conspirator in the present crime.

7. Further considering the CCTV footage of the Canteen of S.T., it appears that therein the conspiracy was hatched of the kidnapping of the son of the complainant. Prima-facie the involvement of the present applicant is seen. Although the child victim is safe at home after kidnapping but the intentions of the accused persons are seen after perusal of charge sheet. The statement of the child victim shows the talk about ransom.

8. So far as another contention of the applicant to the extent

that no case is made out under section 364-A of the Indian penal Code. Here I would like to refer the order passed in Criminal Bail Application No. 2961 of 2019 filed by the co-accused Gopala before the Hon'ble High Court, Bombay in para 5 it is held that:

“After perusal of the documents on record, it appears that the applicant along with the co-accused Sunil Kadam and another accused had kidnapped the victim. The accused Sunil Kadam was close relative of the victim. The child did not make hue and cry as co-accused was known to him. The statement of victim refers to talk of ransom. The investigation revealed that the accused hatched conspiracy and kidnapped the child. Although the child has returned home, the intentions of the accused were clear. The evidence on record will have to be appreciated during trial and this is not the case to give finding that offence u/s 364(A) of IPC is not made out. The intention to commit offence is implicit in the statement of victim.”

9. Prima-facie, involvement of the present applicant is well founded, the crime is of heinous nature, and there is every possibility of tampering with the prosecution witnesses, considering these facts I am not inclined to grant bail. Charge-sheet is filed. Charge is framed against other co-accused. The another contention of the applicant to the effect that due to COVID Pandemic situation the applicant needs to be released on bail. No doubt, the accused cannot be kept for uncertain period in custody, this fact can be taken care of by expediting the trial. Hence, I pass the following order.

ORDER

1. The application Exh.26 is rejected. Already the trial of this matter is expedited.

Islampur
30.06.2020.

(Shekhar C. Munghate)
DJ-1/Additional Sessions Judge,
Islampur.

I affirm that the contents of this PDF file are same, word to word, as per the original order.

Name of Stenographer	:	K.S.Shinde, Steno(Grade I)
Court Name	:	District Judge-1/ Addl.Sessions Judge.
Date	:	30-06-2020
Signed by Presiding officer on	:	01-07-2020
Uploaded on	:	02-07-2020