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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.1017 OF 2018

Asha Gulbir Thakur	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr.P.R.Dave, for the Applicant.

Ms.P.P.Shinde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 29th AUGUST, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks her enlargement on bail in connection with C.R.No.429 of 2016 registered with the Mankhurd Police Station, Mumbai, for the alleged offences punishable under Sections 370(1)(3)(4)(5), 365, 363, 34 of the Indian Penal Code and under Sections 81 and 82 of the Juvenile Justice (Care and Protection of Children) Act.
3. Learned counsel for the Applicant submits that there is no material to connect the Applicant with the alleged offences. He submits that

admittedly, the Applicant has not kidnapped the child, aged one and half years and that there is nothing to show that the Applicant had knowledge that the child handed over by co-accused – Yogita Sale to her, was kidnapped.

4. Learned APP submits that there is recovery of Rs.95,000/- at the instance of the applicant.

5. Perused the papers. According to the Complainant – Mohammad Arif Iqbal Khan, his nephew, aged 1 ½ years, went missing on 04.12.2016. The complainant has stated that co-accused – Yogita Sale and Ganesh Sale had been to his house and that Yogita was playing with his nephew – Ahmed Jafar, aged one and half years and that the child went missing thereafter. During the course of investigation, it was revealed that Yogita had kidnapped Ahmed Jafar and given the child to the Prabhavati Naik, and co-accused – Noorjahan, who in turn sold the child to Rameshwari Halankar in Goa, for Rs. 2,30,000/-. The statement of Rameshwari Halankar, only shows the applicant was present with co-accused – Noorjahan and had signed the chit along with the other co-accused. In the said chit, it was stated that Yogita Sale would not claim the child again. It appears from the statement of Rameshwari, that an amount

of Rs.2,30,000/- was handed over by her to Prabhavati. *Prima facie*, there is no other material to show that the applicant had knowledge that the child which was handed over by co-accused – Prabhavati and Noorjahan, to Rameshwari was kidnapped by Yogita. Mere recovery of the money would not be sufficient having regard to the other evidence on record. The applicant has no antecedents. The applicant is in custody since December, 2016 and investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. and 11:00 a.m., till the conclusion of the trial;
- iii) 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 trial Court as well as to the concerned Police Station, in writing;

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

v) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of her release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.