

Anand

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

BAIL APPLICATION NO. 1566 OF 2019

Prabhavati Kalappa Naik .Applicant

Vs.

The State of Maharashtra .Respondent

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

Mr. A. R. Kapadnis, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 23.07.2019

P.C.

. 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), 363, 365 r/w 34 of the Indian Penal Code and under Sections 81 and 82 of the Juvenile Justice 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. He submits that the only role qua the Applicant is that she handed over the child to Smt. Rameshwari Haldankar.

4. Learned APP opposed the Application. He submits that the Applicant is involved in the said crime i. e. in the racket of child trafficking.

5. Perused the papers. According to the Complainant – Mohammad Arif Iqbal Khan, his nephew went missing on 04.12.2016. He 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 sold the child to the present Applicant and co-accused – Noorjahan, who in turn sold the child to Smt. Rameshwari Haldankar in Goa, for Rs. 2,30,000/-. The statements of witnesses i. e. Smt. Rameshwari Haldankar, Manisha Arlekar & Rohit Arlekar etc. clearly show the complicity of the Applicant. It appears from the statement of Smt. Rameshwari Haldankar that an amount of

Rs. 2,30,000/- was handed over by her to the Applicant. There is also a chit which is on page No. 45 of the Application which is signed by the present Applicant alongwith co-accused, wherein Yogita Sale has stated that she would not claim the child again. Yogita had disclosed that the child was her own child. Learned counsel for the Applicant submitted that the date mentioned on the said chit raises a question, whether the said chit was given on 05.12.2016 as alleged or 06.11.2016 as mentioned in the chit, is a matter which will be decided by the trial Court. The said chit appears to have been signed by the Applicant and co-accused – Noorjahan. It appears that apart from the victim boy - Ahmed Jafar, who was sold by the Applicant to Smt. Rameshwari Haldankar, there was another male boy, aged 1 and ½ months, who was sold by the accused for Rs. 3,00,000/-. It is pertinent to note that co-accused – Noorjahan has been granted bail on medical ground, as she was suffering from HIV and other ailments and not on merits and the same is reflected in the order dated 04.06.2019 passed by this Court (Coram : Revati Mohite Dere, J.).

6. Considering the role of the Applicant and her involvement in the human trafficking, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected. However, the trial of the

Applicant is expedited.

7. 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.

(REVATI MOHITE DERE, J.)