

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

**INTERIM APPLICATION NO. 1853 OF 2021
IN
CRIMINAL APPEAL NO.30 OF 2021**

Rani Mohan Gaikwad

...Applicant

vs.

The State of Maharashtra & Ors.

...Respondents

Mr. Mahendra V. Kawchale for the Applicant.

Mrs. M. M. Deshmukh, APP for the Respondent-State.

**CORAM : NITIN JAMDAR AND
C.V. BHADANG, JJ.**

DATE : 10 AUGUST 2021

P. C.

Heard the learned Counsel for the Applicant and the learned APP.

2. This application is for suspension of sentence and to enlarge the Applicant on bail during the pendency of the Criminal Appeal.

3. The Applicant-Accused No.1 alongwith Accused No.2 were charged under section 364-A read with 34 of the IPC.

The case of the prosecution was that the Accused had kidnapped the minor daughter of PW-1 on 12 June 2008 and 13 June 2008. The prosecution case in short was that the minor girl was sent by her father to buy something. PW-1 received a phone call from landline phone wherein a woman spoke to him in hindi and demanded Rs.30 Lakhs for the release of the child. PW-1 lodged a missing report to the police and requested the police to make discreet investigation. Police located the public booth from where the phone call was made to the cell phone of PW-1 and they laid a trap. The Applicant came there and she was apprehended and she confessed that the kidnapped child is with Accused No.2 Thereafter, accused No.2 called the Applicant as to whether money was received and on the say of the Applicant informing accused no.2 that ransom has been received, the child was dropped near a particular place.

4. The learned Counsel for the Applicant sought to argue that the ingredients of section 464-A of the IPC are not attracted in this case as the Applicant had assured PW-1 that the child will not be harmed. The learned Counsel for the Applicant also placed on record order passed by the Division Bench of this Court in Interim Application No.1 of 2019 on 1 October 2020 granting bail to accused No.2. He states that there is no distinction between the role of the Applicant and accused No.2. The learned APP submitted that perusal of the order dated 1

October 2020 shows that there is difference between the role of the Applicant and accused No.2 and no parity can be claimed. We are not been informed that the grant of bail to accused No.2 was questioned higher by the State.

5. We have perused the evidence led by the prosecution which indicates that as per the prosecution, the Applicant and accused No.2 were acting in concert. The child was held in custody by the accused No.2 and the Applicant was asked to coordinate with the father of the child. When the accused No.2 received a message that ransom amount had been received, accused No.2 had released the child. It is clear from the prosecution case that both accused No.2 and the Applicant were acting in concert, if not the role of accused No.2 is more. That being the position in order to maintain judicial consistency, since accused No.2 is granted bail by the Division Bench, we are of the opinion that the present Applicant also needs to be enlarged on bail on the same terms as the Accused No. 2.

6. Accordingly, the following order:

- i. The substantive sentence imposed upon the Applicant by the Additional Sessions Judge, Pune is hereby suspended.

- ii. The Applicant be enlarged on bail on furnishing PR Bond in the sum of Rs.25,000/- and one or more solvent sureties in the like amount.
- iii. The Applicant shall report to the Court of Sessions at Pune once in six months on the date assigned by the learned Sessions Judge. Upon failure to attend the Court for two consecutive dates, the learned Sessions Judge shall make a report to the High Court and the prosecution would be at liberty to file an application for cancellation of bail.
- iv. The application is allowed in above terms and stands disposed of.

(C.V. BHADANG, J.)

(NITIN JAMDAR, J.)

RAJESHWARI
SUBODH
KARVE

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by RAJESHWARI
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