

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 428 OF 2022

Prabhavati Kalappa Naik	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Dhanashree Lad a/w Mr. Abdul Aziz Khan for the Applicant.

Mrs. M.M.Deshmukh, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 21st JULY, 2022

P.C. :

1. This is the second bail application preferred by the applicant seeking her enlargement on bail in connection with C.R. No. 429 of 2016 registered with the Mankhurd Police Station, Mumbai, for the 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.

2. Learned Counsel for the applicant submits that the applicant is in custody since 20th December, 2016 with no prospect of the trial commencing in the immediate near future. She submits that the passage of time is also a change of circumstance warranting reconsideration of the bail application. She submits that the applicant, a lady and has no antecedents. Learned Counsel for the applicant has also filed an affidavit-cum-undertaking of the applicant duly affirmed by the Jail Superintendent, Byculla Central Prison, Mumbai dated 16th July, 2022.

3. Learned APP opposes the application.

4. Perused the papers. The applicant's first bail application was rejected on merits vide order dated 23rd July, 2019. the said order is on page No.307 of the application. According to the prosecution, co-accused Yogita and Ganesh had been to the complainant – Mohammad Arif Iqbal Khan's house and that co-accused - Yogita took away the complainant's nephew – Ahmed Jafar, aged 1½ years. It appears that during the course of investigation, it was revealed that

Yogita has kidnapped Ahmed Jafar and sold the child to the applicant and co-accused – Noorjahan, who in turn sold the child to Smt. Rameshwari Haldankar in Goa for Rs.2,30,000/-. It is not in dispute that co-accused – Noorjahan has been enlarged on bail having regard to her medical condition. It is also not in dispute that the applicant has no antecedents. Although, co-accused – Noorjahan was granted bail on medical ground, her role was similar to that of the applicant.

5. The applicant is in custody since December, 2016. Charge in the said case was framed only on 20th April, 2022. The applicant has filed an affidavit-cum-undertaking of the applicant duly affirmed before the Jail Superintendent of Byculla Central Prison, Mumbai dated 15th July, 2022 undertaking therein, that if released on bail, she will remain present before the trial Court on each and every date without fail.

6. Having regard to 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 executing PR Bond in the sum of Rs. 30,000/- 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. to 11:00 a.m, till the conclusion of the trial;
- (iii) The applicant shall inform her 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 Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any

person concerned with the case;

(vi) The applicant shall not leave the jurisdiction of the Thane, Mumbai and Navi Mumbai till the conclusion of the trial;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of her release;

(viii) If there is a default in appearing before the Police Station or before the trial Court, the prosecution would be at liberty to file an application seeking cancellation of applicant's bail.

7. The application is accordingly disposed of in the aforesaid terms.

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

REVATI MOHITE DERE, J.