

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**BAIL APPLICATION NO.1290 of 2022**

Shabina Ashraf Khan .. Applicant  
Versus  
Vinoba Bhawe Police Station and ors .. Respondents

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Mr. Shaikh Mehtab Nazia for the applicant.

Ms. A.A. Takalkar, APP for the State.

API Shri B.L. Gavhane from DCB, CID, Unit-04, Antop Hill.

**CORAM: BHARATI DANGRE, J.**

**DATED : 18<sup>th</sup> JULY, 2022**

**P.C:-**

1           The applicant is charge-sheeted in C.R.No. 223 of 2018 for the offence punishable u/s.363, 364A, 365, 327, 324, 506, 120B, r/w Section 34 of IPC.

          The applicant came to be arrested on 5/8/2018. Her Bail Application being rejected by the Sessions, she has approached this Court.

2           The case of the prosecution is that the boy, aged 13 years was kidnapped, and on an FIR filed on 3/8/2018, it is alleged that the present applicant, who is the real aunt of the victim had hatched the conspiracy of kidnapping of the victim.

It is alleged that on that night, when victim was with her, the accused no.1 Jahangir Shaikh came in an auto-rickshaw which was driven by accused no.2 and he forcibly pushed the victim boy in the auto rickshaw. As far as the present applicant is concerned, it is stated that though the victim boy raised a cry of help, she ignored his plea. The victim was taken to the house of accused no.2 where it is alleged that he was kept overnight and some stupefying substance was administered to him. Next day, he was taken to the premises of accused no.4 and on 6/8/2014, when the police received secret information, and conducted a raid and the applicant was relieved.

3           The above events resulted in registration of C.R. The complainant do not make reference to any demand in his original statement dated 4/8/2018 but in his statement dated 9/8/2018, the complainant has stated that the present applicant is the wife of the younger brother of the complainant and on account of their precarious financial condition, he has always rendered assistance to his brother and his wife. He has also helped Shabina in repaying the amount, which she has collected through the *Bachat gat*. The complainant state that this gave an impression to Shabina that he was having sufficient money and since he had disclosed to his own wife that he was likely to receive loan of Rs.Five crore and this was disclosed by his wife to Shabina, she was interested in extorting money from him. However, even in his supplementary statement, there is no reference to any demand

of money.

The victim's statement is also recorded and he had stated that on 3/8/2018, he went to school and thereafter, he went to the tuition classes and returned at 6.00 p.m. In the compound, he met the applicant, who he referred to as Shabina Chachi, who told him to take the keys of Room no.106 of 'B' Wing and wait there. His brother went to the elder aunt's house and he sat in Room no.106 for half an hour. Shabina was shifted to Room no.106 and some of her belongings were shifted to the room. He called his mother from the mobile and informed that he was in Room no.106. When his mother asked him to return home, he locked Room no.106 and returned home. Shabina Chachi called up on his mother's mobile and told her to send the key. In compliance, he went down and gave the keys to his chachi (applicant) who asked him to accompany her to building no.10 for repairing her T.V. He accompanied her, and while his chachi was holding his hand, he shrugged her off and he went walking. When he looked behind, his chachi was talking on phone. He noticed one auto rickshaw near building no.7, where two people were seated. The auto rickshaw followed him and one man alighted and he was pulled inside the rickshaw. He screamed for help, but it is alleged that the applicant looked away. The victim was carried in the rickshaw and the person brandished a knife at him. He, then narrate his ordeal in great detail and he was rescued by the police persons.

4           In the whole episode, the role attributed to the applicant is that when the boy called for help, the applicant did not render any help. The material establishing conspiracy and to satisfy the charge u/s.120B, the learned APP is unable to point out any specific material. She referred to certain CDRs, which by itself, in my considered opinion, do not establish the charges.

The counsel for the applicant, however, would submit that the applicant herself is a victim of domestic violence as the husband and other family members, including the complainant and his wife and other relatives had subjected her to domestic violence. According to the learned counsel, the whole situation has been concocted in order to falsely implicate her. He would submit that while the incident took place, the applicant was carrying a three month old child with her and in fact, the victim sat in the rickshaw on his own and when he was asked to get down, he refused.

5           Considering the material compiled in the charge-sheet, since the applicant has been arrested in the year 2018 and since is in custody and the charge is not yet framed, on the investigation being complete and since the prosecution do not apprehend any flight risk or do not attribute any criminal antecedents to the applicant, in the wake of the accusations levelled against her, she is entitled to be released on bail subject to the following. Hence, the following order :

ORDER

- (a) The Applicant – Shabina Ashraf Khan in connection with C.R.No.223/2018 registered with Vinoba Bhave Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The Applicant shall attend the trial regularly unless and until exempted.

The Application is allowed in the aforestated terms.

( SMT. BHARATI DANGRE, J.)