

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1648 OF 2022**

Kesariyadevi Shankar Paswan .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Ms. Beerta. H. Bajwa i/b Kokila Katra for the Applicant.
Ms. Anamika Malhotra, A.P.P. for the State/Respondent.
Mr. Chavan, PSI, Vashi Police Station.
...

**CORAM: BHARATI DANGRE, J.
DATED : 14th SEPTEMBER, 2022**

P.C:-

1. On the last date of hearing on 17/08/2022, notice was directed to be issued to the complainant and the Investigating Officer was directed to intimate her about her impleadment in the application filed by applicant seeking her release on bail.

Learned APP state that despite frantic search, the victim girl is not found on the address mentioned in the charge-sheet, and therefore notice could not be served.

2. The learned counsel for the applicant has placed on record an affidavit of service, stating that the tracking report reflect the delivery of the notice from the website of India post. This however cannot be

considered to be sufficient enough to accept that the notice is received by the complainant.

The affidavit in service is taken on record.

Left with no alternative, in absence of the complainant the application is heard.

3. I have heard learned counsel for the applicant, learned APP for the State and perused the material compiled in the charge-sheet. The applicant came to be arrested on 17/02/2022, in connection with CR No. 7/2022 registered against unknown persons, which initially invoked section 363 of IPC. Subsequently offences under sections 376 (2)(I), 376 (2)(N) read with 34 of IPC and section 4, 5, 6, 8, 12 of POCSO Act were invoked.

The applicant is arraigned as accused no.1 whereas her son is arraigned as accused no.2, along with one Soni Paswan, their close relative. The case of the prosecution as can be discerned from the charge-sheet, is the victim girl aged 15 years, was reported to be missing on 7/01/2022. The mother of the victim girl realized that the person in the neighbourhood one Guddu Kumar is also missing and she was convinced that her daughter was abducted by him.

On 3/02/2022 the victim girl made a phone call to her mother, and then they reported to the police station and found the girl present

there. The victim girl disclosed that she was abducted by Guddu Kumar and she had conceived. She also narrated that, she resided in Patna along with him, and when she conceived, his mother, sister and aunt admitted her to the hospital in Patna where the pregnancy was terminated and by the flight she was send to Mumbai.

4. It is informed that Guddu Kumar is not traceable. As far as the present applicant is concerned she face accusations under section 313 of IPC but the charge-sheet do not contain any material to reflect that the pregnancy was terminated nor any material has been collected and compiled in the charge-sheet, affirming the statement of the prosecutrix, that her pregnancy was terminated.

5. Considering the limited role attributed to the present applicant in the charge-sheet, and particularly when the main accused Guddu Kumar is absconding, the applicant cannot be further detained, awaiting her trial. She deserve her release on bail.

6. Hence the following order:

: **ORDER** :

- (a) Application is allowed.
- (b) Applicant - Kesariyadevi Shankar Paswan shall be released on bail in connection with C.R.No. 7/2022 registered with Vashi Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer, and shall not tamper with evidence.

(d) After her release, the applicant shall report to the Investigating Officer and provide him the address at which, she is likely to reside in the State of Bihar. She shall also provide the contact number and also keep the officer updated of any change therein.

(e) After she report to the Investigating Officer, she shall be permitted to travel to State of Bihar, where she shall mark her attendance in Baligaon Police Station, District Vaishali, State of Bihar, on First Monday of every month between 10:00 a.m. to 12:00 noon.

(f) The Investigating Officer of the subject CR shall establish contact with the said officer, and the Baligaon Police station shall forward a quarterly report of her attendance to the Investigating Officer. On noticing any lapse on part of the applicant on three consecutive dates, prosecution will be at liberty to effect her arrest.

(SMT. BHARATI DANGRE, J.)