

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (BA) No.529/2022

Monika Luniya V State of Maharashtra thr PSO PS Rajapeth, Amravati

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.P. Dharmadhikari, Senior Advocate a/b Shri C.S. Dharmadhikari and
 Ms A.N. Kawale, Advocate for applicant.

Shri V.A. Thakare, APP for State.

Shri R.S. Kalangiwale, Advocate for Assist to Prosecution.

CORAM : ANIL S. KILOR, J.

DATE : 18-07-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.0148/2021 registered with Police Station Rajapeth, District Amravati city for the offence punishable under Section 363 read with section 34 of the Indian Penal Code.

2. Shri Dharmadhikari, learned Senior Advocate for the applicant argues that the applicant is the grandmother of Master Nayan, a boy who was kidnapped. It is submitted that, on suspicion, the applicant has been arraigned as accused in this crime.

3. Learned Senior Advocate further argues that the applicant is in jail from last 17 months and in this case after

completion of investigation, the chargesheet has been filed. Accordingly, he submits that further custody of the applicant is no more required.

4. It is pointed out from the statements of the witnesses filed alongwith the chargesheet, that at the time of the incident the applicant was with Nayan. It is further pointed out from the statements of children who were playing at the spot of incident and CCTV footage panchanama that, a co-accused came from the backside and had taken away Nayan from the custody of the applicant. Thus, it is submitted that though the co-accused is the relative of the applicant she could not identify the accused who came there from backside.

5. On the other hand, learned APP strongly opposed the application and submits that there was conspiracy and the applicant was the part of the said conspiracy. It is pointed out that the applicant is the second wife of the grandfather of Nayan and sister of accused no.2. He submits that, sufficient incriminating material is collected against the applicant, during the investigation.

6. Learned Counsel assisting the prosecution on behalf of the complainant, has no objection if the present application is allowed.

He submits that, the applicant was married to the grandfather of Nayan and she was staying from last 10 years with complainant's family and therefore, he is of the opinion that the

applicant is not involved in the alleged offence. Accordingly, he submits that the complainant has no objection if the bail is granted to the applicant.

7. I have perused the chargesheet, application and the reply filed by the learned APP.

8. The applicant is a grandmother of the boy who was kidnapped and sister the accused no.2. It has come on record that on the date of the incident, the co-accused came there from backside and had taken away the child forcibly from the custody of the applicant before she could realize anything.

9. Except the fact that, the accused no.2 is the sister of the applicant, who has actively participated in the alleged offence of kidnapping of Nayan, there is nothing for having suspicion against the applicant as regards her involvement in the alleged offence.

10. Even, the mother of Nayan in her statement has mentioned about the applicant's love and affection towards the family members and Nayan.

11. In the circumstance, I am of the opinion that only on the basis of suspicion, keeping her in jail for uncertain period, even after the completion of investigation will amount to pre-trial punishment.

12. Thus, considering the above referred factors, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.0148/2021 registered with Police Station Rajapeth, District Amravati city for the offence punishable under Section 363 read with section 34 of the Indian Penal Code, be released on bail on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- iii) The applicant shall attend the concerned Police Station on first day and 20-07-2022, 21-07-2022, 23-07-2022 between 10.00 am to 12.00 noon.
- iv) The applicant shall not tamper with the prosecution evidence.

(Anil S. Kilor, J.)