

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1335 OF 2023

Kethavarpu Laxmi w/o Kethavarpu Vyankateshwarlu
Age: 36 years, Occu: Labour,
R/o: 3-4, Ward No.7, Near Masjid Ganapvaram,
Kodad Mandlam, Nalgonda,
Andhra Pradesh

... Applicant

Versus

The State of Maharashtra
Through Police Station Kotwali,
District Parbhani

... Respondent

...

Mr. S. K. Chavan, Advocate for the Applicant
Mr. S. B. Narwade, APP for Respondent/State

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CORAM : S. G. CHAPALGAONKAR, J.

Reserved On : 20.09.2023

Pronounced On : 05.10.2023

FINAL ORDER :-

1. Heard the learned Advocate appearing for the applicant and the learned APP for the respondent/State.
2. By this application, the applicant seeks regular bail in connection with Crime No.64/2022, registered with Kotwali Police Station, District Parbhani for the offences punishable under Sections 363, 368, 370, 202 r/w Section 34 of the Indian Penal Code [for short 'IPC'].
3. The investigation was set in motion on the basis of

information given by one Shaikh Munnibee Shaikh Ayyub. It is reported that, the informant resides along with her mother and children at Lohgaon Road, Sakla Plot, Parbhani. Her son Shaikh Huzer Shaikh Ayyub left the home following his grand-mother. However, he could not be located thereafter. On 04/03/2022, the mother of the informant came back from Parli. However, she was not knowing whereabouts of the son. A search was taken for him at various places and relatives, however, all efforts were failed. Hence, she lodged a complaint that her son, namely, Shaikh Huzer aged about five years has been kidnapped by the unknown persons. The investigation was progressed in pursuance of the aforesaid crime. The applicant has been arrested on 13/03/2023 and she was remanded to the police custody till 20/03/2023. Since then, she is behind the bars. Her prayer for grant of bail has been rejected by the Session Court, Parbhani vide order dated 27/06/2023. Hence, the present application.

4. Learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated in the aforesaid crime. The case of the prosecution is based on the assumption, presumption and surmises. There is no admissible and acceptable evidence to show the involvement of the applicant in commission of offence. No specific role is attributed against the applicant. She is alleged to be companion of accused person without

substantial evidence. The charges levelled against the applicant are groundless. Hence, he urges to release the applicant on bail.

5. Learned APP vehemently opposes the prayer for grant of bail. He would submit that the offence is serious in nature. During the course of investigation, the role of the applicant has been surfaced. He would submit that the applicant has established contact with the family, who was willing to adopt the child. She received the amount and handed over the child. The statement of witnesses and other material clearly show the complicity of the applicant in commission of offence. Therefore, he urges to reject the bail.
6. Having considered the submissions advanced, apparently, the child aged about five years was kidnapped from Parbhani and lastly, it was delivered to the witness Vijaya Akula against the sum of Rs.4,00,000/-. The evidence on record depicts that the applicant has acted as a middle agent between the family who was willing to adopt the child and the accused persons who are dealing with illegal trafficking of the child. The 164 statement of Vijaya Venu Akula clearly depicts the role of the applicant in commission of offence. She states that the applicant came in a car, received a sum of Rs.4,00,000/- in cash and then handed over the child aged about five years to them. She further states that the accused – Laxmi [present applicant] had

assured to provide a legal documents towards adoption of the child. However, after handing over a Aadhar Card, her mobile number was missing. The CDR record also depicts that there was correspondence between the applicant and co-accused persons that shows her the complicity in the matter. Prima facie, there is sufficient evidence to show involvement of the applicant in commission of offence. The applicant is a resident of Andhra Pradesh. As urged on behalf of the prosecution, the possibility of absconding of applicant so also tampering of evidence cannot be ruled out. It would be difficult to secure her presence during trial. The possibility of repeating similar offence by applicant can be sensed from her role and modus operandi.

7. In that view of the matter, no case is made out for grant of bail. Hence, the bail application stands rejected.

[S. G. CHAPALGAONKAR]
JUDGE