

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

BAIL APPLICATION NO.1416 OF 2023

Akhtarbi @ Baji w/o Salim Shaikh
Age: 50 years, Occu: Household,
R/o: Sakla Plot Lohgaon Road, Parbhani
Tq & Dist. Parbhani

... Applicant

Versus

The State of Maharashtra
Through Kotwali Police Station,
Parbhani Tq. & Dist. Parbhani

... Respondent

...

Mr. G. R. Syed, 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 assumption, presumption and surmises. Nothing incriminating is recovered from the applicant. The vague allegations are made against her. The applicant has been arrested on 13/03/2023. Since then, she is behind the bars. The charge-sheet is filed long back. The trial would take its own course. The further detention of the applicant

would not be necessary. She is ready to abide by any conditions for grant of bail as imposed by this Court. Hence, he urges to release the applicant on bail.

5. Learned APP strongly opposes the prayer for grant of bail. He would submit that the applicant is a main accused in commission of offence. She kidnapped the child from Sakla Plot and with the help of her companion – Pravinbee @ Sultana transported the victim towards Hyderabad. Learned APP would further point out that the applicant is involved in similar offences. The release of the applicant may hamper the smooth prosecution of the case. Hence, he prays for rejection of the application for grant of bail.
6. Having considered the submissions advanced, apparently, a minor / victim aged about five years was allegedly kidnapped by the applicant from Lohgaon Road Sakla Plot, Parbhani and handed over to accused – Pravinbee @ Sultana, who further took the victim towards Hyderabad and handed over to the accused – Rudresh Warang. Thereafter, through other accused persons handed over the victim to witness – Vijaya Venu Akula under the pretext that the parents of the child are willing to give him in adoption. Similarly, the amount of Rs.4,00,000/- has been received by the accused persons from the witness – Vijaya Venu Akula.
7. The evidence on record clearly depicts that the applicant had kidnapped the victim and handed over to her partner.

The statement of the child - victim is recorded, which clearly demonstrate that the applicant has played main role in kidnapping. The complicity of the applicant in commission of offence is prima facie established from the material available in the charge-sheet. The offence is serious involving illegal trafficking which attracts the offences punishable under Section 368 of IPC. Although the charge-sheet is filed, considering the nature of offence, it would not be appropriate to release the applicant on bail. The possibility of repeating similar offences cannot be ruled out. Similarly, the tampering of evidence and pressurizing the witnesses is possible at the hands of accused / applicant.

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