

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

BAIL APPLICATION NO.1541 OF 2023

Sangeeta @ Geeta @ Ruksana
w/o Anand Pancholi
Age: 38 years, Occu: Household,
R/o: Secundarabad, Markpalli, Telangana **... Applicant**

Versus

The State of Maharashtra
Through I.O. Kotwali Police Station,
District Parbhani **... Respondent**

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Mr. A. R. Muley h/f Mr. M. P. Kale, Advocate for the Applicant
Mrs. P. V. Diggikar, 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 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 applicant has not committed any offence as alleged. The entire prosecution case is based on the assumption, presumption and surmises. The applicant is implicated only because she was alleged to have been accompanied with the main accused. No specific role is attributed against her. The charge leveled against the applicant is groundless. The investigation is completed and charge-sheet is also filed. The further detention of the applicant is not necessary. The applicant is ready to abide

by any conditions as imposed by this Court. The applicant is behind the bars for more than six months i.e. from 20/03/2023. Section 370 of IPC would not attract to the applicant in the facts of present the case. Hence, he urges to release the applicant on bail.

5. Learned APP strongly opposes the prayer in the application. She would submit that the offences are serious in nature. The applicant is a member of a gang, who is involved in commission of similar offence. The release of the applicant may hamper smooth prosecution. She would further submit that the applicant entrusted the child to co-accused - Rudresh Warang. The amount received from the witness has been distributed amongst the accused persons. Hence, she urges to reject the application.
6. Having considered the submissions advanced, apparently, the case of prosecution is that the victim, aged about five years, was kidnapped by accused - Akhtarbee @ Baji from Sakla plot at Parbhani. Thereafter, she handed over him to accused - Parveenbee @ Sultana. It is further alleged that, the accused - Parveenbee @ Sultana took the victim to Secundrabad and as per say of the applicant, the victim was taken to hotel Rest Comfort at Secundrabad. The accused - Rudresh Warang received the custody of the victim at Hyderabad and further transported him to witness - Venu Akula and received sum of Rs.4,00,000/- from him. As such, it is alleged that, the applicant in connivance with the

other accused persons given effect to illegal trafficking of the victim.

7. In support of the aforesaid allegations, the prosecution relies upon the CDR and mobile locations of the applicant of 4th and 5th March, 2022.
8. Although the CDR confirms the communication between the applicant and accused – Parveenbee on 4th and 5th March, 2022, that itself would not be sufficient to establish the complicity of the applicant in commission of offence. Pertinently, the money trail between the applicant and accused persons appearing on the bank statement nowhere depicts that the applicant has received the amount as can be seen in respect of other accused persons.
9. The allegations in the charge-sheet is further based on so called information given by co-accused persons. However, the statement of co-accused persons are not made part of charge-sheet. The overall scrutiny of the material in the charge-sheet shows that the entire case against the applicant is based on the CDR which shows the call history between the applicant and co-accused, which cannot be construed as substantive piece of evidence to assume complicity of the applicant in commission of offence. In that view of the matter, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, namely, Sangeeta @ Geeta @ Ruksana w/o Anand Pancholi be released on 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 IPC on furnishing P.B. and S.B. of Rs.1,00,000/- [Rs. One Lakh Only] on the following conditions:
 - (a) The applicant shall not tamper with the prosecution evidence in any manner.
 - (b) She shall attend each and every effective date during the course of trial.
 - (c) She shall furnish her residential address with proof of contact numbers to the concern Police Station as well as with local Police Station where she is residing and also furnish compliance to the trial court within 30 days of her release bail.
- (iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE