



Diksha Rane

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2774 OF 2022

RASHMI JOGENDER MAHATO

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Ratnesh M. Dube for the applicant.

Mr. S. V. Walve, APP for the State.

PSI Rahul Patil, Shivaji Park.

CORAM : M. S. KARNIK, J.

DATE : MARCH 18, 2024

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 363, 363(a) read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 29/12/2019 vide C.R. No. 277/2019 with Shivaji Park Police Station.

3. The incident is dated 28/12/2019. The applicant was arrested on 14/1/2020. The applicant is in custody for more than 4 years and 2 months. I am informed that the charge has been framed.

4. The application is opposed by learned APP. It is alleged that three months old child was kidnapped by the applicant and other co-accused from the footpath when the child's mother was sleeping. The child was found in Sonipat, Hariyana in the custody of the applicant.

5. Learned counsel for the applicant argued that at the highest, the offence of kidnapping would be made out. These are *prima facie* observations for the purpose of consideration of the bail application and the trial shall proceed on its own merits.

6. The applicant is a woman. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. An apprehension is expressed that the applicant may evade attending the trial. In the facts and circumstances of the present case, the applicant can be enlarged on bail by imposing stringent conditions to allay the apprehension expressed by learned APP. The applicant will face the consequences post-trial if found guilty. Considering that the applicant is in custody for 4 years and 2 months and as even only charge has been framed with the trial unlikely to

conclude in near future, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Rashmi Jogender Mahato in connection with C.R. No.277/2019 registered with Shivaji Park Police Station shall be released on bail on her furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Shivaji Park police station once in six months, every first Monday of the concerned month between 11.00 a.m. to 1.00 p.m., commencing April, 2024.
- (e) 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. The applicant shall not tamper with evidence.
- (f) On being released on bail, the applicant shall furnish her contact number and residential address to the

Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender her passport, if any, to the investigating officer.

(i) Liberty to apply for cancellation of bail if the applicant does not co-operate with the trial Court or attend the trial.

7. The application is disposed of.

(M. S. KARNIK, J.)