

**Order below Exh.1 in Cri. Bail Application No. 29/2022**

Sunny @ Kishor Bhika Pagar .. Applicant/  
Accused.

**Vs.**

The State of Maharashtra  
through Police Inspector,  
Kalwan Police Station, Tal. Kalwan,  
(Cr. No.I 96/2021) .. Prosecution

**Order below Exh.1.**

1. This application has been filed by the applicant/accused under section **439 of Cr.P.C.** for releasing him on **regular bail** in the aforesaid Crime registered at Kalwan Police Station, for the offence punishable under sections 363, 323 r/w. 34 of IPC and 18 of the POCSO Act.

2. According to the case of the prosecution, the FIR was lodged by the father of the Victim on 26.10.2021 alleging therein that the incident took place on 25.10.2021 around 07.00 pm. On that day, her daughter had gone to her friend's house to take notes. While on her way to home, four unknown persons came in Swift vehicle bearing No. MH-14-DF-8689 and forcefully kidnapped the Victim by gagging her mouth. Her brother had witnessed the incident and he chased the said car on his motorcycle but unfortunately, he missed them. After some time, when all the relatives were searching the Victim, she was found

near Kelicha Bag, Kalwan Gaothan in an unconscious state. She was taken to Government Hospital, Kalwan and thereafter the report was lodged.

Based on his report, Kalwan police registered the offence and arrested the applicant on 26.10.2021 and since then, he is in judicial custody.

3. The learned counsel Mr. S.V.Bhate appearing for the applicant/accused has argued that applicant has been implicated in the false case. He is innocent. There is no previous criminal history. His custodial interrogation is already over. There is no need to detain him further. The investigation is over and charge-sheet is filed. The ld. Counsel further argued that applicant is not the owner of the vehicle. Due to political rivalry, he has been falsely implicated in this case. He further submits that accused No.1 is already released on bail by this Court and hence, ground of parity is also available. He is ready to abide each and every conditions whichever may be imposed by this Court. Lastly, he prayed for bail to the applicant/accused.

4. The ld. APP Smt. R. M. Kotwal has strongly opposed the application by filing her written notes of argument vide Ex.4 and submitted that the offence is serious in nature and he may again commit similar offences if released on bail. Two accused are still absconding. The applicant may tamper with evidence and may pressurize the Victim, if released on bail.

The investigating officer has filed his reply vide Exh.5 and strongly opposed the application expressing his apprehension of tampering the witnesses. Hence, prayed for rejection of the application.

The original complainant appeared and resisted the application by filing his say vide Exh.9 and strongly opposed the application. The applicant and complainant resides in the same locality and the family of applicant is pressurizing them. The Victim is still under treatment. She has stopped going to School due to terror of the accused persons. He is criminal on record and his relatives are threatening the complainant. On these and other grounds, he strongly opposed the application and prayed for rejection of the same.

5. After hearing both the sides and going through the charge-sheet, it appears that the allegation against the applicant is that he alongwith co-accused have abducted the Victim with ill-intention of committing sexual assault on her. The medical report, shows that she was not sexually assaulted. Her torn clothes were also not seized by the police during investigation for the best reasons known to them. The accused No.1 is already released on bail and as such the applicant is also entitled for parity. Due to rising cases of Covid-19 Pandemic and as Jails are already flooded with the criminals and chargesheet is filed, I am inclined to release the applicant on bail. Hence, following order is passed.

## **Order**

1. Application is hereby allowed.
2. Applicants/ accused – Sunny @ Kishor Bhika Pagar shall be released on **regular bail** on furnishing their P. R. bond of Rs.20,000/- with one or more sureties in the like amount, on the following conditions:-

He shall -

- (a) not act in manner injurious to the interest of the prosecution.
  - (b) maintain law and order.
  - (c) furnish the address of his residence, copy of Pan and Adhar card at the time of execution of bond and shall not change the residence without prior permission of this Court.
3. If the applicant/accused commit breach of any of the above conditions, the bail granted to him shall be liable to be cancelled.

**( Smt. S.S. Nair )**

Date : 18.01.2022.

Addl. Sessions Judge-4, Nashik.