

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 803 OF 2015**

Arshad Nabbu Khan & Anr.

...Applicants

Versus

State of Maharashtra

...Respondent

Mr. M. K. Kocharekar for the Applicants

Ms. S. S. Kaushik, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

THURSDAY, 7th MAY, 2015

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P for the State.

2. By this application, the applicants seek their enlargement on bail in connection with C.R. No. 113 of 2015 registered with the Mahim Police Station, Mumbai, for the alleged offence punishable under Section 370 (1) of the Indian Penal Code; Sections 3 and 4 of the Child Labour (Prohibition and Regulation) Act, 1986 read with Sections 23 and 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000.

3. The complaint has been lodged by one Dhanajit Dnyandeo Patil, a police constable attached to the Mahim Police Station. It is alleged that pursuant to a reliable information received, that small children were working in Gulzar Bakery, Opposite Sea Breeze Building, Shop No. 10, Lower Chawl, Mumbai – 400 016, a raid was conducted on the said bakery and one boy aged about 14 years was found working in the said bakery. On inquiry with the boy, he disclosed his age as about 14 years. Pursuant to the complaint lodged by the police constable, present applicants came to be arrested.

4. Learned Counsel for the applicants submitted that the applicant No. 1 is the owner of the said Gulzar Bakery and applicant No. 2 is the Manager. He tendered certain documents on record to show that the age of the victim boy was 18 years at the relevant time and not 14 years. He has relied on the Birth Certificate of the boy, his School Certificate and a Ration Card in support of his contention to show that the victim boy was aged 18 years.

5. Learned A.P.P has tendered a report of the Probation Officer, which shows that the boy who was found to be working in the bakery, hailed from a very poor family from Uttar Pradesh; that he was studying in 7th standard and that due to financial problems, he had left the School and had come to Mumbai. In the said report, it is stated that the boy was drawing salary of Rs. 4,000/- per month, and that his sister was mentally retarded and that he was the only earning member in the family and that there was no other source of income for the family. As per the Probation Officer's report, on the request of the boy that he wanted to go back to his native place, the Probation Officer had given a report to the Chairperson of Child Welfare Committee, requesting them to grant permission to release the child and handover him to his parents. The applicants have been in custody since the date of their arrest i.e. from 7th April, 2015.

6. Considering the nature of allegations and the report of the Probation Officer, the applicants are enlarged on bail on the following terms and conditions:

ORDER

- (i) The applicants be enlarged on bail in connection with C.R. No. 113 of 2015 registered with the Mahim Police Station, Mumbai, on executing PR Bond in the sum of Rs. 15,000/- each, with one or two sureties in the like amount;

- (ii) The applicants shall attend the Mahim Police Station on every Sunday between 10:00 a.m. to 11:00 a.m., till the filing of the charge-sheet and thereafter, as and when called for;

- (iii) The applicants shall not tamper or intimidate the victim or any member of his family or any witness concerned with the case;

- (iv) The applicants to cooperate with the conduct of the trial;

- (vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

7. The aforesaid observations are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.