

CRIMINAL BAIL APPLICATION NO. 1409 OF 2015

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P.C.:

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicants herein are arrested on 16/12/2014 in Crime No. 480 of 2014 registered at Kurla Railway Police Station for offence punishable under Section 370 of the Indian Penal Code read with Section 26 of Juvenile Justice (Care & Protection of Children) Act, 2000. The investigation is completed and charge-sheet is filed on 29/1/2015.

3 It is the case of the prosecution that on 16/12/2014 Sandhya Dhumal working as a social worker lodged a report at the police station contending therein that she works with Pratham Mumbai Education Initiative. The organisation works for the welfare of the children. Two members of the said organisation namely, Navnath Kamble and Mahendra Mane are working for the said cause in the State of Bihar. On 14/12/2014 the said members of the organisation informed to the Bombay office that several children are being brought from Bihar to Mumbai by Jansadharan Express for the purpose of employing them. They were further informed that the train would arrive at Mumbai Kurla Terminus on 15/12/2014. Accordingly, the complainant alongwith other social workers reached Lokmanya Tilak Terminus. The train was delayed by 5 hours. They had also informed the police about the operation and police had also arrived at Lokmanya Tilak Terminus. It was noticed that 82 children alighted from the train with some persons who had brought the children from Bihar for the purpose of employing them in various small scale industries. Out of 82 children 14 children were with their guardians. 40 children were not accompanied by their guardians. 28 boys had

come alongwith original residents of their village who were working in Mumbai. The FIR shows the list of children who were travelling without their guardians or parents. Some of the children were from the border area of India and Nepal. They were all taken into custody. Their statement were recorded. Subsequently, they were rescued and given into the custody of their parents/guardians.

4 In the course of investigation, the investigating officer had recorded the statement of the victim namely, Chandan Kumar. He has disclosed to the police that he works in his agricultural land. He has two sisters. One sister has got married. The second sister is yet to get married and to raise funds for the marriage of his sister, he had voluntarily chosen to go to Manglore for work. He has studied upto 5th standard. His father was insisting upon him to pursue his education further. He had taken Rs. 1200/- with him from the house without the permission of his parents. He had accompanied the present applicants who hail from the adjacent village. He was to accompany the applicants upto Manglore. They had to change the train at Mumbai and therefore, they had travelled by Jansadharan

Express. On the railway station, boys were accosted and taken into custody.

5 This would make it clear that the victim boy was never to be brought at Mumbai and was never staying in Mumbai. He had accompanied the applicants voluntarily to go to Manglore for work. There is no material to show that the victim was either abducted or kept in detention by the applicant. That the act of the applicant would not amount to slavery and servitudes. The applicant has been in custody for almost 8 months. He therefore, deserves to be enlarged on bail.

6 The learned APP submits that the applicants hail from Bihar and there is no possibility that the applicant would be available to face the trial and hence, it is prayed that the application be rejected.

7 The learned Counsel for the applicants submits that upon taking into consideration the statement of the victim, it cannot be said that the applicants had either misled the victim and brought him to

Mumbai to engage him as child labour. That the victim also belongs to poor family. The learned Counsel for the applicants submits that the applicants would furnish local sureties and would remain present at the time of trial on each and every date. In view of this, the application deserves to be allowed.

8 The abovesaid observations are prima facie in nature and are restricted to decide the application under section 439 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or quashing of FIR or at the time of trial. The learned Trial Court shall decide the same on its own merits in accordance with law uninfluenced by the above observations.

9 Hence, following order is passed :

ORDER

(i) The application is allowed.

- (ii) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or more local sureties in the like amount.
- (iii) The applicants shall report to the police station on 1st Sunday of every month till conclusion of the trial.
- (iv) Upon being enlarged on bail, the applicants shall also give an undertaking that they would remain present on each and every date of trial.
- (v) Upon being enlarged on bail, the applicants shall furnish their permanent address, landline number, cell phone number to the investigating officer.
- (vi) Upon failure to attend any two consecutive dates either at police station or at the time of trial, the prosecution shall be at liberty to file an application for cancellation of bail.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)