

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

**Criminal Application No. 4627 of 2016**

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| District : Nanded |
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Nagesh Vithalrao Gutte,  
Age : 27 years,  
Occupation : Service,  
R/o. Flat No.7,  
Laxminarayan Apartment,  
Shivajinagar, Nanded.

.. Applicant.

**versus**

The State of Maharashtra.

.. Respondent.

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*Mr. Joydeep Chatterji, Advocate, for the applicant.*

*Mr. S.J. Salgare, Addl. Public Prosecutor, for  
the respondent.*

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**CORAM : A.M. BADAR, J.**

**DATE : 29TH AUGUST 2016**

**ORAL ORDER:**

The applicant / accused in Crime No. 139/2016, for offences punishable under Section 370 of the Indian Penal Code and under Section 80 of the Juvenile Justice (Care & Protection of Children) Act, 2015 [**For short, "Juvenile Justice Act"**], registered with Police Station, Nanded (Rural), District Nanded, by this application, is seeking his release on bail.

2. Heard the learned Counsel for the applicant. He drew my attention to the FIR as well as the penal Sections invoked against the applicant and submitted that further detention of present applicant is not warranted.

3. The learned Addl. Public Prosecutor opposed the application and contended that in past, even against wife of present applicant, similar offence was registered.

4. Perused the FIR. According to the prosecution case, members of Child Welfare Committee visited the Child Home of the applicant and found that entry of one of the child was not recorded in the official record. Accordingly, FIR came to be lodged against present applicant by Chairman of the Child Welfare Committee.

5. The offence alleged against present applicant is punishable under Section 370 of the Indian Penal Code, so also punishable under Section 80 of the Juvenile Justice Act. There is no material to infer prima facie that the child was trafficked by the modes mentioned in penal provision of Section 370 of the IPC. Section 80 of the Juvenile Justice Act deals with penal provisions regarding adoption without following the prescribed procedure. The

child found was not given in adoption, as seen from the FIR. Prima facie it appears that the admission of the child was not reported as required by Section 32 of the Juvenile Justice Act, which is punishable with imprisonment up to six months or fine of Rs. 10,000/-, as per Section 34 of the said Act. In this view of the matter, further pre-trial detention of the present applicant is not warranted.

6. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, be released on bail on his executing P.R. Bond in the sum of Rs. 5,000/- and on furnishing one or more solvent sureties of the like amount.

(c) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(d) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial.

(e) The applicant shall not repeat commission of similar type of offences in future.

7. The Application stands disposed of in the aforesaid terms.

( A.M. BADAR )  
JUDGE

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