

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

27 CRIMINAL APPLICATION NO. 4846 OF 2016

RAISA BEGUM GAFFAR KHAN

VERSUS

THE STATE OF MAHARASHTRA

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Mr. Shaikh Mobin H., Advocate for Applicant.

Mrs. V.N.Patil (Jadhav), A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 19th SEPTEMBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 128/2016 registered at Kadim Jalna police station, Jalna, Dist. Jalna for the offences punishable u/ss 370 read with 34 of the Indian Penal Code by this application is praying for releasing her on bail after filing of the charge sheet.

2. Heard learned counsel for the applicant. He argued that perusal of the charge sheet does not show commission of the offence punishable u/s 370 of the Indian Penal Code, as there is no iota of evidence to show that male child of 20-21 days old was being trafficked for the purpose of exploitation. The learned A.P.P. opposed the application by

contending that the crime in question is in respect of sale of minor. The applicant has no permanent place of abode and she changes rented house from time to time. According to the learned A.P.P., the applicant may not be available for trial.

3. Perused the charge sheet. On the basis of secret information received by police, a trap was arranged and a decoy was sent to the present applicant. It was found that the present applicant then attempted to sell a newly born male child aged 20-21 days to the decoy for the consideration of ₹ 10,000/-. On signal, police raided and apprehended the present applicant. During investigation, it was found that the child was born to co-accused Sunita Shelke because of her extra marital affair with co-accused Kisan Zine. The said male child was then entrusted to the present applicant, who attempted to sell out that child.

4. Now, the investigation is over. During trial, it will have to be established by the prosecution that the trafficking was for the purpose of exploitation as defined u/s 307 of the Indian Penal Code.

5. The apprehension of the learned A.P.P. that the applicant may not be available for trial, can be taken care of by imposing appropriate condition. However, on completion of investigation, considering the nature of crime, I see no reason to refuse bail to the present applicant. Hence, the following order.

- (i) The application is allowed.
- (ii) The applicant Raisa Begum Gaffar Khan in Crime No. 128/2016 registered at Kadim Jalna police station, Jalna, Dist. Jalna for the offences punishable u/ss 370 read with 34 of the Indian Penal Code be released on bail on executing P.R. Bond of ₹ 25,000/- [Rupees Twenty Five Thousand] and on furnishing surety in the like amount.
- (iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.
- (iv) The applicant shall not tamper the evidence of the prosecution.
- (v) The applicant shall co-operate the trial Court in the expeditious disposal of trial against her.
- (vi) The applicant shall inform her residential address to the concerned Court and shall also inform change in her residential address from time to time to the said Court.

[A.M.BADAR, J.]