

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Judgment delivered on : August 12, 2016

+ BAIL APPLN. 1411/2016
MOHD. IZHAR ALEEM & ANR Petitioner
Through: Ms. Sunita Arora, Mr. Krishan
Kumar, Advocates
Mr. Jatin Sharma, Advocate for NGO
Justice Ventured International.

versus

THE STATE Respondent
Through: Mr. M.S. Oberoi, Additional Public
Prosecutor for the State

CORAM:
HON'BLE MR. JUSTICE P.S. TEJI
JUDGMENT

P.S. TEJI, J.

1. By this petition filed under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.), the petitioner is seeking anticipatory bail in FIR No. 417/2016 under Section 3/14 Child Labour Act & 75, 79 of Juvenile Justice Act and Section 16, 17, 18 of Bonded Labour System Act, at Police Station Khajuri Khas, Delhi.

2. Upon an information about child labour in the area of Khajuri Khas, a meeting chaired by SDM, HQ/NE Seelampur, Delhi, Officials of Delhi Labour Department, Delhi Police and Members of NGO – “Justice Ventures India Trust” was held on 18.05.2016 and consequently decided to conduct raid on 19.05.2016 to rescue the

children. During the rescue operation 8 children / bonded labourers were rescued from manufacturing units of ladies Bindi. SDM, HQ/NE, Seelam Pur, vide his written order directed the police to registered an FIR under the aforesaid sections. Medical examination of the rescued children was conducted, statements under Section 161 of Cr. P.C. recorded and as per order of CWC, all the children were handed over to Officer Incharge of Sanskar Ashram, Dilshad Garden, Delhi. Statement of rescued children were recorded under Section 164 of Cr. P.C. on 24.05.2016 before the court of learned Metropolitan Magistrate, Karkardooma Courts, Delhi.

3. The petitioners apprehending their arrest in the aforesaid case moved an anticipatory bail before the court of learned Additional Sessions Judge, Karkardooma, Delhi, which was dismissed vide order dated 16.06.2016. Hence, the petitioners are before this court for seeking anticipatory bail.

4. Ms. Sunita Arora, learned counsel for the petitioners contended on behalf of the petitioners that the allegations leveled against the petitioners are false and incorrect. It is contended that the children – Mustaqeem and Musabbir Alam are about 18 years of age and relatives of petitioner No.1 and their parents visited the petitioner No.1 and his family members, thereafter they returned back to their home town. It is further contended that the parents of rescued children have given their statements in the office of DCP, Delhi in respect of the relationship and purpose of visit of their children to Delhi. It is further contended that nothing has to be recovered from the petitioners therefore no custodial interrogation of the petitioners is required.

Moreover, petitioners have clean antecedents and have never been involved in any criminal activity/case and they are ready to join the investigation as and when directed. Therefore, in the facts of the case, it is prayed for grant of anticipatory bail to the petitioners.

5. Mr. M.S. Oberoi, Additional Public Prosecutor for the State vehemently opposed the aforesaid contentions made on behalf of the petitioners and contended that seven out of eight rescued children are minors as per the ossification test, conducted by the Medical Board of GTB Hospital on 15.06.2016 and the dental examination of the 8th rescued child labour Izaz Alam is yet to be conducted. It is further stated that there is strong possibility of the petitioners being involved in heinous crime of human trafficking wherein the quantum of sentence on conviction is between 10 years to life imprisonment. More so, the petitioners have submitted fake documents before the CWC, as indicated in order dated 19.07.2016 of CWC and the petitioners have attempted to contact the children therefore, there is strong likelihood of petitioners threatening the minor children and influence the investigation. Therefore, the petitioners ought not be granted anticipatory bail in this case.

6. I have heard counsel for the petitioners as well as learned Additional Public Prosecutor for the State and also gone through the material on record. It is an admitted fact that the children were found working during the raid conducted by the raiding team.

7. After hearing counsel for the parties, it is admitted fact that there is recovery of 8 children from the factory of the petitioners who were working in the manufacturing units of ladies Bindi, the

petitioners, and as per report of the ossification test dated 15.06.2016, conducted by the Medical Board of GTB Hospital, seven children out of eight were found to be minor, however, dental examination of the 8th rescued child – Izaz Alam is yet to be conducted. Though the petitioners have contended that the children – Mustaqeem and Musabbir Alam are about 18 years of age and parents of four children have given their affidavits stating the age of their child and the statements of parents of rescued children have given their statements before DCP in respect of the relationship and purpose visit of their children in Delhi, but all these facts need to be adjudicated upon by the Trial Court during trial and at this stage this court is to take a prima facie view as to whether the petitioners have been able to make out a case for grant of anticipatory bail in this case.

8. This court observes that the trial is at the initial stage and the charge sheet is yet to be filed and in the facts and circumstances the possibility of the petitioners being involved in heinous crime of human trafficking cannot be ruled out at this stage. Therefore, in the considered opinion of this Court, the petitioner is not entitled to concession for grant of anticipatory bail.

9. Resultantly, the facts emerging from the record culminate into dismissal of the present bail application. Accordingly, the present bail application filed by the petitioner is dismissed at this stage.

10. Before parting with the order, this court would like to place it on record by way of abundant caution that whatever has been stated hereinabove in this order has been so said only for the purpose of disposing of the prayer for bail made by the petitioner. Nothing

contained in this order shall be construed as expression of a final opinion on any of the issues of fact or law arising for decision in the case which shall naturally have to be done by the Trial Court seized of the trial.

11. With aforesaid direction, the present bail application stands disposed of.

P.S.TEJI, J

AUGUST 12, 2016

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