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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1767/2016**

MOHD. ILYAS

..... Petitioner

Through: Mr. D.K. Malhotra & Mr. Satish
Verma, Advocates.

versus

STATE

..... Respondent

Through: Mr. Rajat Katyal, APP and Ms. Ankita
Goyal, Advocate along with SI
Rakesh Kumar, PS-Jafrabad, for the
State.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

07.10.2016

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1. Further status report has been tendered in Court and taken on record.
2. The petitioner has preferred the present application under Section 438 Cr.P.C. to seek anticipatory bail apprehending arrest in case FIR No.257/2016 under Sections 370/ 374 IPC, Sections 23/ 26 of the J.J. Act and Sections 16/17 of the Bonded Labour System Act and Sections 7/ 8/ 9/ 11/ 14 of the Child Labour Act registered at Police Station – Jafrabad.

3. The case of the petitioner is that the petitioner is running a jeans stitching unit at Jafrabad, Delhi. On 06.06.2016, three children, namely Gulam Hashmi, Imran and Sahiba Alam, who are children of the employees of the petitioner, had come with the employees to the unit. Suddenly, two police officials entered into the premises of the petitioner and took away the aforesaid children with them on the allegation that they have been employed as child labour and that the children were being removed to rescue them under the orders of the SDM (Shahdara). The petitioner claims that the said children were not working in the unit, nor they were sitting on any stitching machine.

4. The applicant also states, without going into the background of the matter, that vide order dated 13.06.2016, the petitioner was required to deposit Rs.36,000/- and the same was deposited and the children were restored to their parents/ guardians on 20.06.2016.

5. The anticipatory bail application moved by the applicant was dismissed by the Trial Court on 20.08.2016.

6. The first status report filed on record states that a raid was conducted by the SDM (Shahdara) along with Inspectors of Child Labour Department, Jhilmil Colony, Delhi and the officials of an NGO, namely Bachapan Bachao Andolan. A police team from Police Station – Shahdara was also part of the said raid conducted in the area of Police Station – Jafrabad at House No.460, 3rd Floor, Gali No.21, Jafrabad, Delhi; and at House No.468, Ground Floor, Gali No.21, Jafrabad, Delhi. The raiding team rescued total 17 children indulged in child labour. 14 children were rescued from House

No.460, 3rd Floor, Gali No.21, Jafrabad, Delhi, who were working in the factory of jeans items running in the said house, and 3 children were rescued from House No.468, Ground Floor, Gali No.21, Jafrabad, Delhi, who were working in the factory of the jeans sewing running in the said house. The petitioner is running a jeans sewing factory at House No.468, Ground Floor, Gali No.21, Jafrabad, Delhi.

7. The status report further records that the 17 children were medically examined and their statements under Section 161 Cr.P.C. were recorded. From their statements, it was revealed that the accused persons had approached the houses of the children and stated to their parents that they run a Madarsa, where they teach Urdu, Hindi and English and also make arrangement for food and accommodation free of cost. They also give money to the parents of the poor children. On this assurance, the accused persons transported the children from their houses to Delhi and took them to the respective factories and indulged them in child labour in their respective factories.

8. The status report further states that the children were taken to Mukti Ashram run by the NGO Bachpan Bachao Andolan for their proper care and protection, and thereafter, they were produced before the CWC, Dilshad Garden, Delhi for their restoration and counselling. Age determination of the rescued children was conducted and all the children were found to be below 18 years of age, except one, namely Mohd. Isteyak Alam s/o Nijamuddin.

9. The further status report filed apart from repeating what has been

noted hereinabove further states that as the information about the raid spread, public gathered at the spot and due to interference of local people, videography and photography with respect to these three children from the factory of the petitioner could not be done. However, the statements of the SDM and police personnel assisting the raid of the SDM, had been recorded. The three children rescued from the factory of the petitioner were produced before the CWC, Dilshad Garden, Delhi.

10. The order passed by the CWC for restoration of the said three children to their respective parents passed on 28.06.2016 has also been produced by Mr. Katyal. The CWC recorded the statement of these children. Pertinently, these children continued to remain at the NGO for about a month and they were collected by their parents only thereafter. The children also disclosed that they were being paid wages, which were much lower than the minimum wages. They had not paid the arrears of their wages and, consequently, the CWC directed the petitioner to pay the same. The said amounts were paid and fixed deposits were created in favour of the said children, which were delivered to their respective parents.

11. From the above, the story set up by the petitioner that it was the parents of these three children, who were employed with the petitioner and that these three children were only accompanying their parents, prime facie, does not hold water. If that would have been the case, the children would not have been left in the custody of the Child Welfare Home for a month. Pertinently, the names of the parents of these three children have not even been revealed by the petitioner, which also throws doubt about the statement that the parents were the employees, and not the children. The

offences alleged against the petitioner are serious. His custodial interrogation would certainly be necessary to unearth the extent of his involvement.

12. I do not find any merit in this petition. The same is, accordingly, dismissed. The petitioner is directed to surrender forthwith.

13. The observations made in this order have been made only for the purpose of consideration of the present anticipatory bail application and shall not influence the mind of the Trial Court at the stage of trial.

OCTOBER 07, 2016
B.S. Rohella

VIPIN SANGHI, J