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

*Order Reserved on: 8<sup>th</sup> November, 2017*

*Order Pronounced on: 22<sup>nd</sup> November, 2017*

+ **BAIL APPL. 2169/2017 & CrI.M.A.17603/2017**

**SANJAY KUMAR**

.....Petitioner

Through: Mr. Kirti Uppal, Sr. Adv. with Mr. Deepender Hooda, Mr. Sidharth Chopra, Mr. Pranvir Sethi & Mr. Mohit Bhandari, Advocates.

versus

**STATE (GOVT. OF NCT OF DELHI)**

....Respondent

Through: Mr. Hirein Sharma, APP for State with SI Rakesh Yadav from P.S. Vasant Vihar.

+ **BAIL APPL. 2170/2017 & CrI.M.A.17605/2017**

**LALIT KUMAR TOKAS**

.....Petitioner

Through: Mr. Kirti Uppal, Sr. Adv. with Mr. Deepender Hooda, Mr. Sidharth Chopra, Mr. Pranvir Sethi & Mr. Mohit Bhandari, Advocates.

versus

**STATE (GOVT. OF NCT OF DELHI)**

....Respondent

Through: Mr. Hirein Sharma, APP for State with SI Rakesh Yadav from P.S. Vasant Vihar.

**CORAM:**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

1. The present petitions have been filed under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as

‘Cr.P.C.’) for seeking **grant of anticipatory bail** in FIR No. 395/2017 under Sections 79/75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 & Sections 3/14 of the Child Labour (Prohibition and Regulation) Act, 1986, registered at PS, Vasant Vihar.

2. Brief facts of the case are that, a complaint was lodged on 20.09.2017 at the instance of NGO Butterflies as per which victims Vikas Kumar aged about 16 years, Dilbar aged about 16 years and Vimal Kumar aged about 14 years were rescued from Zile Singh hostel at Munirka, New Delhi on 15.09.2017 by a child rescue team with the aid of NGO Helpline. The victims have stated that they were employed and made to do all household chores/works of making food, washing utensils, cleaning, swiping etc; that they were paid Rs 4,000/- each per month which is below the prescribed minimum wages; that they were beaten if the work was not up to the mark or not to their satisfaction or if they refused to do work; that they were made to work for long hours i.e. more than the standard working hours; that they were ill-treated and kept in inhumane conditions; that they were not paid their adequate due on time in respect of the work done.
3. Mr. Kirti Uppal, learned Senior Counsel for the petitioners contended that the petitioners being innocent are implicated in a false and frivolous case; that the petitioners have not committed any offence as they were not aware of the fact that victims were minors; that their parents themselves had requested the petitioners

to employ them so that victims could support their family with regard to financial condition; that the age of victim Vimal Kumar has been alleged in the FIR to be 14 years, however in the ration card of victim his age is reflected as 20; that as the victim is a major, no offence under the Child Labour (Prohibition and Regulation) Act, 1986 and the Juvenile Justice (Care and Protection of Children) Act, 2015 is made out; that victims were not subjected to any physical violence, harassment or put to any type of hazardous activity; that in the MLC of the victims, no injury has been opined; that statements of victims have been taken under coercion and influence with intention to settle scores with petitioners; that FIR in question is out of complainant's grudges against the petitioners and is arbitrary and imaginary to gain mileage; that petitioners have already joined investigation and undertakes to do so as and when required; that petitioners undertakes not to tamper evidence or influence any witness; that hence in the aforesaid circumstances anticipatory bail be granted to the petitioners.

4. Mr. Hirein Sharma, learned APP for the State vehemently opposed the anticipatory bail application of the petitioners and submitted that the petitioners being owners of the hostel were well aware of the fact that these victims are minor; that the petitioners by violating statutory provisions, employed minors and made them work in a barbaric manner; that the victims were beaten and made to work for long hours; that there is chance of petitioners tampering

with the evidence; and hence in the aforementioned circumstances, petitioners should not be granted anticipatory bail.

5. I have heard the arguments advanced by learned counsel for the parties and perused the material available on record.
6. In the present case it is undisputed that the three victims namely, Vikas Kumar, Dilbar and Vimal Kumar, were employed by the present petitioners in their hostel. In their statements recorded under Section 161 and Section 164 Cr.P.C., the victims have stated that they were employed to do household work at the Hostel in Munirka and were paid Rs.4000/- month; that they were made to work from 6 a.m. to 12 p.m.; that on many occasions they were also given beatings. Victims Vikas Kumar and Dilbar have also stated that they are 16 years of age and the said fact has not been disputed by the petitioners.
7. In the Age Estimation Report dated 15.11.2017, the age of victim Vimal Kumar has been stated to be between 12-14 years. Therefore the argument raised by the petitioners that as the victim Vimal Kumar was a major no offence under the Child Labour (Prohibition and Regulation) Act, 1986 and the Juvenile Justice (Care and Protection of Children) Act, 2015 could be made out, holds no ground.
8. Keeping in view the peculiar facts of the present case wherein three victims below the age of 14 years have been employed in a hostel ; nature and gravity of the allegations made against the petitioners and other factors including severity of the punishment prescribed in

law, I find no sufficient ground to grant anticipatory bail to the petitioners.

9. Accordingly the present petition stands dismissed.
10. Before parting with the above order, it is made clear that anything observed in the present petition shall not have any bearing on the merits of the case during trial.

**CRL.M.A.17603/2017 & 17605/2017 (Exemption)**

Allowed, subject to just exceptions.

Accordingly, the application is disposed of.

**SANGITA DHINGRA SEHGAL, J**

**NOVEMBER 22, 2017**

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