

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1802 OF 2019

Huma @ Zallehuma Ismail Dalvi

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Prabhanjay R. Dave, Advocate for the Applicant.

Mr. Y.M. Nakhawa, A.P.P. for the Respondent-State.

CORAM : S. K. SHINDE, J.
DATE : 04th NOVEMBER 2019.

P.C.

1 Heard learned counsel for the applicant and learned A.P.P. for the Respondent – State.

2 Applicant is seeking to release on bail in Crime No.33 of 2019 registered with the V.P. Road Police Station, Mumbai for the alleged offences punishable under Sections 370 (4), 465, 468, 471 and 420 read with Section 34 of the Indian Penal Code and Sections 80, 81 and 97 of the Juvenile Justice Act, 2015.

3 One Mahi Singh a biological mother gave birth to male child on 22nd December, 2018. It is alleged that the applicant is instrumental in trafficking a male child for the consideration. On this set of allegations, offence is under Section 374 (4) of the Indian Penal Code came to be

registered against the biological parents of the child, and four other persons including, the applicant herein.

4 It appears one, Sarika Jadhav, was introduced to the biological mother by one Mahesh. The Sarika Jadhav suggested biological mother to give a child in adoption. It appears the biological mother and father agreed to give the child in adoption and accordingly on 22nd January 2019, Deed of Adoption was registered with the registered at Sub-Registrar of Assurances at Pune.

5 It appears from the evidence that the child was given in adoption for consideration and part of which has been received by the present applicant and the other co-accused including biological father.

6 Learned counsel for the applicant submits that the Mahesh accused No.2 has been released on bail by the learned Sessions Judge. The statement is accepted. Besides the Mahi Singh biological mother has also been released on bail.

7 Evidence shows / indicates, present applicant had accompanied the biological mother and father to the Pune, as is evident from the statement of Hotel Manager Mr. Subhash Kutekar. The Adoption Deed does not witness presence of the present applicant.

8 Taking into consideration of the facts of the case and particularly that the Mahesh is already released on bail and I am inclined to grant this application and accordingly the application is granted.

9 The applicant is directed to released on bail on the following terms and conditions :

ORDER

- (i) The applicant is directed to be enlarged on bail on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of trial;
- (iii) The applicant shall inform particulars of his residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted.

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10 The application is allowed in the aforesaid terms and is accordingly disposed of.

11 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

12 All concerned to act on the authenticated copy of this order.

(S. K. SHINDE, J.)