

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

CRIMINAL BAIL APPLICATION NO. 1605 OF 2021

1) Sachin Yelve
2) Supriya Yelve

...Applicants

Versus

State of Maharashtra

...Respondent

Mr. Uday P. Warunjikar a/w Mr. Sumit Kate for the Applicants.
Ms. P. P. Shinde, APP for the Respondent-State.
Mr. Devidas Gajare, API, Charkop Police Station, Mumbai.

CORAM : SURENDRA P. TAVADE, J.

DATE : 13th MAY, 2021.

P.C. :

1. The Applicants have filed this application under Section 439 of Cr.P.C, in connection with C.R. No. 875 of 2020, registered with Charkop Police Station, for the offences punishable under Sections 370, 363 read with 34 of Indian Penal Code.

2. It is alleged against the Applicants that they purchased child from the Accused No.1 for Rs.15,000/-. It is alleged against Accused No.1 that, she kidnapped the child from custody of its parents and handed over it to the present Applicants and received Rs. 15,000/-

3. In view of the above allegation, learned Counsel Mr. Warunjikar appearing for the Applicants submitted that the Applicants are in fact victims. They were not having child. They were searching the child for

adoption. In the same process, the Accused No. 1 had assured them that she would procure child from adoption and the process of the adoption would be completed within short time. Learned Counsel for the Applicants submitted that on perusal of the FIR, it appears that the Applicants had no role in kidnapping the child. They were in fact happy after seeing the child. They went to the market for purchasing cloths and other articles for the child. In the meantime, they were arrested. They never try to abscond. In fact, they co-operated with the police. The child is handed over to the biological parents. Learned Counsel for the Applicants further submitted that the Applicants are in custody since November 2020. Charge-sheet is filed. Investigation is completed.

4. In the other hand, learned APP submits that there is allegation of kidnapping the child against the Applicants. The allegation against the Applicants is of serious nature, therefore, their application is rejected.

5. Heard Mr. Warunjikar, learned Senior Counsel appearing for the Applicants and learned APP for the State-Respondent. Perused FIR and the charge-sheet, It appears that the co-accused had assured the present Applicants that she would provide them child as they wanted to adopt the child. It appears that, Accused No. 1 had kidnapped the child from custody of its biological parents and handed over it to the Applicants. They were having market of purchasing child.

The Applicants were in search of child for adoption. It appears that the co-accused gave the child to the Applicants with the assurance that she would complete the process of adoption. The facts mentioned in the FIR are taken as it is, the role of the Applicants was not made out under Section 363 of IPC. Even there was no intention of trafficking of the child because they wanted to adopt the child.

6. The investigation is completed. Charge-sheet is already filed before the trial Court. In my opinion the Applicants are entitled to be released on bail. Hence, I pass the following order:

ORDER

- (i) The Criminal Bail Applications is allowed and disposed of;
- (ii) The Applicant are directed to be released on bail in connection with CR No. 875 of 2020, registered with Charkop Police Station, Mumbai on furnishing PR bond in the sum of Rs.15,000/- each with one or more sureties in the like amount;
- (iii) The Applicants shall not tamper with the prosecution witnesses whatsoever manner;
- (iv) Bail at trial Court.

(SURENDRA P. TAVADE, J.)