

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 2596 OF 2023

Seema Akhatar Hussain and Others ...Applicants

Vs.

The State of Maharashtra ...Respondent

Mr. Ganesh K. Gole, for Applicants.

Mrs. A. A. Takalkar, APP for State.

Mr. Pankaj Dhadge, PI, Bhoiwada Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 29th NOVEMBER, 2023

PC:-

- 1) Heard the learned counsel for the applicants and the learned APP for the State.
- 2) This is an application for pre-arrest bail in connection with C.R. No. 299 of 2023, registered with Bhoiwada police station, for the offences punishable under Sections 120B, 370(1), 370(4) and 336 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) When the application was listed before this Court on 13th September, 2023, this Court was persuaded to grant interim bail. This Court has, *inter alia*, observed as under:-

“...4. Mr. Gole submitted that the applicants had rendered professional medical services to co-accused Heena, as she had got admitted in the hospital on 16th July, 2023 representing that she was brought by her husband. After the male child was born, co-accused Heena got herself discharged from the hospital on 17th July, 2023. It was further submitted that, in any event, offences punishable under Sections 370(1) and (4) of the Penal Code cannot attributed to the applicants as the child was allegedly given in adoption, albeit unlawfully. No role of exploitation can be attributed to the applicants.

5. The learned APP resisted the prayer for pre-arrest bail on the ground that the child was handed over to co-accused Sabira, who is sister of applicant No.1, in the presence of the applicants – doctors.

6. I have perused the statement of Heena, the co-accused and the biological mother of the child. She was a divorcee. It seems that she had conceived on account of relationship outside marriage. Co-accused Heena desired to suppress the birth of the child as she wanted to re-marry. In the statement of Heena the role attributed to the applicants is that they were present alongwith the mother of Heena, when the child was handed over to Sabira. The material on record *prima facie* does not indicate that the applicants were involved in any act of exploitation or human trafficking for wrongful gain....”

4) The learned Counsel for the applicants submits that in terms of the aforesaid order dated 13th September, 2023, the

applicants had appeared before the Investigating Officer and co-operated with the investigation.

5) The learned APP, on instructions of the Investigating Officer, who is present before the Court, concurs with the said statement.

6) For the reasons which weighed with this Court in granting the interim bail and the fact that the material on record prima facie does not indicate that the applicants were involved in the act of exploitation and human trafficking and that the applicants are the medical professionals, I am impelled to make the order of interim bail absolute.

7) The order of Interim Bail dated 13th September, 2023 is made absolute on the terms and conditions incorporated therein.

8) The applicants shall henceforth appear before the Investigating Officer as and when directed, by at least five days prior notice, till filing of the charge-sheet.

9) The applicants shall regularly attend the proceedings before the jurisdictional Court.

10) The application stands disposed.

[N. J. JAMADAR, J.]