

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

ANTICIPATORY BAIL APPLICATION NO.1012 OF 2024

Mohammed Taj Ahmed Ansari Applicant

versus

The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1027 OF 2024**

Mainuddin Jamdar Mohd. Ansari Applicant

versus

The State of Maharashtra Respondent

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- Mr. Afren Shaikh a/w Jyoti Badgujar, Advocate for Applicants in both ABAs.
- Smt. M. H. Mhatre, APP for the State/Respondent in both ABAs.

**CORAM : SARANG V. KOTWAL, J.
DATE : 16th APRIL, 2024**

P.C. :

1. Both these applications are decided by this common order because they arise out of the same subject matter.

2. The Applicants are seeking anticipatory bail in

connection with C.R.No.846/2024, dated 27/02/2024, registered with Mumbra Police Station, Thane City, under section 374 of the Indian Penal Code and under section 75 and 79 of the Juvenile Justice Act (hereinafter referred to as the J. J. Act).

3. Heard Mr. Afren Shaikh, learned counsel for the Applicants and Smt. M. H. Mhatre, learned APP for the State.
4. The FIR is lodged by the Shop Inspector, Deputy Commissioner of Labour, Thane. On 27/02/2024 the first informant and the officers of the Child Protection Branch, Thane, visited different establishments to check whether any children were exploited. It is alleged that when their squad reached one shop M/s. Badshah Fastfood, Mumbra, District Thane, at about 11.55 a.m., one young boy was seen doing work of cleaning the table, removing plates etc. On enquiry it was found that his age was 12 years and 6 months. He was a native of Uttar Pradesh. He told the informant that he was staying in that shop itself. The Applicant Mainuddin was present in the

establishment. He was the manager. The other Applicant Mohammed Taj was the owner, but he was not present. The FIR is lodged on the allegations that the Applicants had exploited this boy.

5. Learned counsel for the Applicants submitted that section 374 of IPC is bailable. Section 79 of the Juvenile Justice Act is not made out as the boy was not kept in bondage for the purpose of employment or his earning were not detained. At the highest it can be an offence u/s 75 of the J.J. Act. But even in this case, the facts show that the said section is not attracted because the child was not exposed to unnecessary mental or physical suffering. He submitted that the FIR itself indicates that there was nobody to look after the child. He was practically abandoned by his family. He had taken shelter in that shop due to extreme poverty. This fact may be taken into consideration.
6. Learned APP produced the investigation papers before me. She submitted that if the Applicants are granted relief, they be directed to cooperate with the investigation.

7. I have considered these submissions and I have perused the investigation papers. At the highest it shows that when the informant and others went to that establishment, this boy was found in the shop cleaning the tables. However, the investigation does not show that any customers from the shop were examined by the Investigating Officer to show that the said child was exploited or was kept in employment by the Applicants. The investigation papers show that at present the boy is kept under the protection of CWC. Said boy has an elder brother. But apparently he was not looking after his younger brother.

8. Thus, it can be seen that the said boy was practically without any support and he had taken shelter in that establishment. In the facts of the case it is necessary to consider the fact of extreme poverty in which the boy was surviving. The investigation does not show that he was exploited or that he was forced to clean the tables or pick up the plates. The investigation does not show any of these aspects. In this view of the matter, in the facts of the case, the custodial interrogation of the

Applicants will not serve any purpose. It would be sufficient if they cooperate with the investigation.

9. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.846/2024, dated 27/02/2024, registered with Mumbra Police Station, Thane City, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) The Applicants shall cooperate with the investigation.
- (iii) The applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)