



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.798 OF 2024
(Bharatbhai s/o Keshubhai Patel Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.V. Rai, Advocate for the applicant.
Mr. N.B. Jawade, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 29, 2024

Apprehending the arrest at the hands of police in connection with Crime No.990/2023 registered with Police Station Kalamna, Nagpur, District Nagpur for the offences punishable under Sections 363, 366, 369 and 370 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by the father of the victim girl on an allegation that his daughter aged about 16 years was taken from the home by her friend Pradnya Lambsonge and thereafter she didn't return home. On the basis of the said report, police have registered the missing report. During inquiry of missing report it revealed that present applicant and other co-accused with the help of the friend of the victim took her at Gujarat, induced her to perform the marriage with one Karsan. Thus, the allegation is that victim was trafficked with the help of the friend of the victim. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the role of the present applicant is concerned is not specified, general allegations are made. There is no allegation that he either induced or took the victim along with him and performed the marriage with one Karsan. He submitted that considering the role of the present applicant, his custodial interrogation is not required. He submitted that from the reply filed also nowhere it reveals that any specific role is played by the present applicant. In view of that, the applicant be protected by granting anticipatory bail.

4. *Per contra*, learned APP strongly opposed the said application and submitted that the victim was not only taken by the co-accused with the help of the friend of the victim but her forged Adhar Card was prepared and thereafter her marriage was performed with one Karsan Ishwarbhai Khokani by obtaining the amount of Rs.1.80 lakhs. The statement of the victim specifically shows the allegation against the present applicant who has induced her to perform the marriage and also insisted her and forcefully performed her marriage. He submitted that in the light of the statement of the victim, the involvement of the present applicant in trafficking is revealed. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties and perused the investigation papers from which it reveals that during investigation, the Birth Certificate of

the victim was collected from which it reveals that she is a minor girl. Her birth date is 02/04/2008. The statement of the victim was also recorded from which it reveals that on 20/11/2023 her friend Pari @ Pradnya approached to her and demanded some amount from her. However, she was not having said amount, and therefore, said Pari has left the place. On 21/11/2023 on the pretext of dropping her near the railway station, said Pari took her from the home and taken her at some other place wherein the other co-accused took the victim at Gujarat and forcefully performed her marriage with one Karsan by obtaining the money. On the basis of the said statement, the crime is registered against the present applicant. Not being trafficked is a fundamental right of every Indian citizen. From the statement of the victim, it reveals that she is minor girl and her marriage was performed by the present applicant and other co-accused by inducing her and pressurizing her with a person by name Karsan who is aged about 27 years. The marriage is not only performed but the monetary gain is also received by the present applicant and other co-accused it means that the minor victim girl was sold to the said Karsan by the present applicant and the other co-accused.

6. The considerations for grant of anticipatory bail are different than the considerations for grant of bail under Section 483 of the Bharatiya Nyaya Sanhita, 2023. While considering the anticipatory bail application of the applicant, the Court has to see the nature of the

accusation levelled against the applicant/accused, the punishment provided for the same and the gravity of the offence. Considering the involvement of the present applicant is in a trafficking of a minor victim girl, no *prima facie* case is made out to grant anticipatory bail and the applicant is not entitled for any protection. In view of that, the application deserves to be rejected.

7. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*