

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

**BAIL APPLICATION NO.2474 OF 2024**

|                           |     |            |
|---------------------------|-----|------------|
| Sairabano Nabiulla Shaikh | ... | Applicant  |
| versus                    |     |            |
| The State of Maharashtra  | ... | Respondent |

Mr. P.S. Abrol, for the Applicant.  
Mr. S.H. Yadav, APP for the State.  
Mr. Nitin Palande, PSI, Trombay Police Station present.

**CORAM: N.J.JAMADAR, J.**  
**DATE : 9 JANUARY 2025.**

**PC.**

1. Heard the learned Counsel for the parties.
2. The Applicant, who is arraigned in C.R.No.426 of 2023 registered with Trombay Police Station, Mumbai, for the offences punishable under Section 370 read with Section 34 of the IPC and Sections 81 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Sections 33 and 36 of the Maharashtra Medical Practitioners' Act, 1961, has preferred this application to enlarge her on bail.
3. On 6 September 2023, an information was received at Trombay Police Station that a lady was to sell a new born child. A trap was laid. The said lady

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was contacted on her cell phone. She agreed to come near Khandoba Temple, Maharashtra Nagar, Mankhurd, along with a child. A surveillance was mounted. At about 12.50 p.m., Reena Nitin Chavan (A2) came at the said spot along with a new born child and Sairabano Shaikh (A1), the Applicant. Reena Chavan (A2) was apprehended along with the child. Incriminating articles including the bundles of currency notes were recovered from the Applicant.

4. On interrogation, Reena Chavan (A2) and Sairabano (A1) revealed that the mother of the said child was Gulbashah Matin Shaikh (A3) and co-accused Gorobi U. Shaikh (A4) had conspired with the other co-accused to sell the said child for a sum of Rs.5 lakhs, sans legal adoption. Gulbashah (A3) came to be arrested. In the inquiry with Gulabshah (A3), it transpired with Sairabano (A1), the Applicant had sold a child of Rukaiya Shaikh with the assistance of Goribi U. Shaikh (A4) and Shabana J. Shaikh (A5).

5. In the disclosure statement, Goribi U. Shaikh (A4) disclosed that she along with Dr. Sairabano (A1), the Applicant, and Shabana (A5) had sold the children of Gulabshah and Rukaiya at the instance of Julia (A6). The photographs of the children, which were shared with Julia (A6) and Sairabano (A1) for showing the same to the prospective purchasers, were retrieved from the mobile phone handset of Goribi (A4) pursuant to the said disclosure statement.

6. Mr. Abrol, the learned Counsel for the Applicant, submitted that the Applicant was, in fact, entrapped by the police. The Applicant was called at the said place and the alleged incriminating articles were foisted on the Applicant. There is no material to indicate that the Applicant was involved in the trafficking of children. Since this Court has already enlarged the co-accused on bail, the Applicant also deserves the same dispensation.

7. Mr. Yadav, learned APP, stoutly resisted the prayer for bail. It was forcefully submitted that the Applicant was apprehended red-hand, immediately after the new born child was delivered and the bag containing the cash of Rs. 5 lakhs, for which the new born child was sold, was exchanged. During the course of investigation, it was revealed that the Applicant has habitually indulged in trafficking in children. Therefore, the Applicant does not deserve to be enlarged on bail.

8. *Prima facie*, I find substance in the submissions of Mr. Yadav, the learned APP. There is material to show that the Applicant was apprehended along with Reena Chavan (A2), the co-accused, in the very act of handing over the new born child and accepting the money for which the child was purportedly sold. I find it rather difficult to accede to the submission of Mr. Abrol that it was a case of entrapment of the Applicant. On the contrary, there is material to indicate that the Applicant was in regular touch with Goribi Shaikh. The call

data record indicates that even a day prior to the occurrence there were calls between the Applicant and Goribi Shaikh. Moreover, on 3<sup>rd</sup> September 2023, the Applicant had shared the pictures of the new born child.

9. In this view of the matter, I am impelled to hold that a very strong *prima facie* case has been made out against the Applicant. What aggravates the indictment against the Applicant is the fact that the Applicant claims to be a medical professional and by abusing the said privilege, on the Applicant had allegedly indulged in trafficking in new born babies exploiting the vulnerabilities of poor co-accused.

10. Therefore, this is not a fit case to exercise discretion in favour of the Applicant.

11. Hence, the following order :

#### ORDER

(i) The Application stands rejected.

(ii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and co-accused and the trial Court shall not be influenced by any of the

observations made hereinabove.

( N.J.JAMADAR, J. )