

Ajit

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 5365 OF 2024**

Santosh Shivaji Dhumale	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Vipul Dushing *a/w A. R. Chikate a/w Tanmay Kate a/w Anvay Pawar, for the Applicant.*
Ms. Anamika Malhotra, *APP for the State-Respondent.*
Mr. Shirish Shivaji Shinde, *API, Azad Maidan Police Station.*

CORAM Dr. Neela Gokhale, J.
DATED: 8th September 2025

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 0823 of 2022, FIR dated 29th October, 2022 registered with the Azad Maidan Police Station for the offences registered under Section 370(1)(4)(5), 120-B read with 34 of the Indian Penal Code, 1860 and under Section 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2. The facts of the case are that, while investigating a child trafficking matter, PSI of Azad Maidan Police Station got information that the Applicant herein was involved in acting as a mediator in supplying children for adoption. The allegation against him is that he used to act as conduit between the biological parents and couples desirous of adopting a child.

3. The Applicant was arrested on 11th November 2022 in the said C.R. and he remains in custody till date.

4. Heard Mr. Dushing, learned Counsel for the Applicant and Ms. Malhotra, learned APP for the State.

5. Mr. Dushing has tendered an order dated 8th April 2024, passed by this Court in Bail Application No. 3543 of 2023, whereby the Applicant therein, who was the main accused involved in kidnapping of minor children, has been enlarged on bail. This Court in the said matter has observed that despite there being material to show that the main accused

had taken away the child and that the photographs of the child were shared with the present Applicant, it is debatable as to whether offences punishable under Section 370 of the Penal Code can be said to have been made out. This Court has observed that the applicability of Section 370 of the Penal Code will be a matter for trial, to ascertain as to whether the child was kidnapped for the purpose of exploitation. Thus, the main accused was granted bail by the said order on certain terms and conditions.

6. Mr. Dushing has also tendered an order dated 4th December, 2024 passed in Bail Application No. 4801 of 2024, whereby the present Applicant was also enlarged on bail in the other offence also registered under Section 370 of the Penal Code. In the said order, despite observing that the role attributed to the Applicant is that of receiving the photographs of the child forwarded by the biological parents, the applicability of Section 370 of the Penal Code is debatable.

Thus, this Court granted bail to the Applicant in the said CR as well.

7. In the present case also the Applicant is charged with offences punishable Section 370(1) and 370(4) of the IPC, for having acted as a conduit between the biological parents and couples desirous of adopting a child.

8. Mr. Dushing submits that the Applicant is in custody since 11th November, 2022 and has already suffered incarceration of 2 years and 10 months. He also submits that charges have not yet been framed by the Trial Court. He also submits that all the other accused have been enlarged on bail.

9. Ms. Malhotra admits that charges have not been framed and the trial is likely to take sometime. In view of the aforesaid and considering the facts on record, in my view, a case for bail is made out. The application is therefore allowed and it is directed as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial;
- iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station;
- iv) The Applicant shall not leave India, without permission of the trial Court;
- v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vi) The Applicant shall inform his latest place of residence and mobile contact number immediately

after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

10. Application is allowed in the above terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)