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

BAIL APPLICATION NO. 3257 OF 2025

Gulabsha Matin Shaikh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. R.M.H. Jabali for the applicant.

Mrs. Megha Bajoria, APP for respondent No.1-State.

Mr. Nanekar, PSI a/w WPC Karuna Patil.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 26, 2025

P.C.:

1. By the present bail application filed under Section 439 of the Code of Criminal Procedure, 1973 ("Cr.PC." for short), the applicant seeks his release on regular bail in connection with Crime Register No. 426 of 2023 registered with Trombay Police Station. The said crime has been registered for offences punishable under Sections 370, 34 of the Indian Penal Code ("IPC" for short), read with Sections 81 and 87 of the Juvenile Justice (Care & Protection of Children) Act, and further read with Sections 33 and 36 of the Medical Practitioners Act.

2. The prosecution case, in brief, is that on 6th September 2023, the informant, a police constable attached to Trombay Police Station, resumed his duty at about 8:00 a.m. On that day, Police

Inspector Khan called him and other police staff into his cabin. At that time, API Nanekar directed police constable Kutale to call two panch witnesses. In their presence, along with one private person namely Mohd. Ali Shaikh, the police discussed an information received that two women were coming to sell a newborn child.

3. Acting upon this information, the police party laid a trap near Khandoba Mandir, Maharashtra Nagar, Mankhurd, Mumbai. At about 11:40 a.m., the team reached the spot. After some time, a message was received by the secret informant from one of the women, stating that she would be arriving shortly. Around 12:30–12:50 p.m., two women arrived, one of whom was carrying a newborn child. At that juncture, the private person, Mohd. Ali Shaikh (who was acting as a decoy customer), engaged in conversation with the woman. The woman handed over the child to lady constable Bhate, and in return, Mohd. Ali Shaikh handed over a bag containing cash to her. Immediately thereafter, upon the signal of the informant, the police apprehended both the women at the spot.

4. On enquiry, the two women disclosed their names as Reena Chavan and Saira Banu Shaikh. During their personal search, various articles were found. From accused Reena Chavan, one mobile handset, one sim card, and a blue coloured hair clip were seized. From accused Saira Banu Shaikh, one mobile handset, one sim card, some cash, and a white coloured bag were recovered. All these articles, including the cash, were duly seized and sealed in the presence of panch witnesses.

5. During interrogation, accused Saira Banu Shaikh disclosed that the newborn child was procured from the present applicant/accused Gulabsha Shaikh. She further revealed that one Goribi Shaikh was to receive Rs. 2,50,000/-, while the agent namely Reena Chavan and another lady Shaikh were to receive Rs. 1,00,000/- each, and she herself was to get Rs. 1,50,000/- from the transaction. Thus, the child was proposed to be sold for a total consideration of Rs. 5,00,000/-. She also stated that the child was brought from Rafiq Nagar, Govandi. Thereafter, both accused women were taken to Trombay Police Station, where the FIR was lodged.

6. The learned Advocate appearing for the applicant has drawn my attention to the orders passed by the co-ordinate bench of this Court in Bail Application No. 989 of 2024, dated 2nd May 2024, wherein the so-called main culprit of the case was granted bail. He has further pointed out that another co-accused, against whom allegations of directly selling infants were levelled, was also granted bail by order dated 21st November 2024 in Bail Application No. 3002 of 2024. He submits that the role attributed to the present applicant is limited only to the disclosure made by accused Saira Banu Shaikh, who stated that the child was procured from the applicant. The learned Advocate submits that the applicant has no prior criminal antecedents, whereas the co-accused, who has been released on bail, had antecedents. On these grounds, he prays for release of the applicant on bail.

7. Per contra, the learned APP strongly opposes the bail application. She submits that while releasing the co-accused Julia

and other co-accused, the co-ordinate bench had not taken into consideration the statements of key witnesses, who specifically attributed the role of giving money to the mother of the infant and taking custody of the child. According to her, the role of the present applicant is not merely peripheral but integral to the offence, as the disclosure made links the applicant to the very source of procurement of the infant. She submits that the principle of parity cannot be extended mechanically, particularly when the involvement of the applicant strikes at the root of the trafficking activity. She therefore contends that the applicant is not entitled to bail.

8. I have carefully considered the rival submissions and gone through the record of the case. The material collected during investigation indicates that the allegations against the applicant primarily rest upon the disclosure made by co-accused Saira Banu Shaikh, who stated that the infant child was procured from the applicant. Apart from this disclosure, there is no independent material brought on record to show that the applicant himself was present at the spot, or that he directly participated in the act of selling the child.

9. It is also significant to note that the co-ordinate bench of this Court, by its orders dated 2nd May 2024 in Bail Application No. 989 of 2024 and 21st November 2024 in Bail Application No. 3002 of 2024, has already released on bail the co-accused against whom allegations of active involvement in the sale and transaction of the infant were made. In comparison, the role attributed to the present applicant appears to be of a lesser degree. The principle of parity,

though not to be applied mechanically, does require consideration when co-accused having stronger allegations against them have already been enlarged on bail.

10. The applicant has no criminal antecedents, which further weighs in his favour. The apprehension of the prosecution that the applicant was part of a larger racket can be adequately safeguarded by imposing strict conditions while granting bail. The investigation is complete and the charge-sheet has already been filed, hence the further custodial interrogation of the applicant is not necessary.

11. In these circumstances, and considering that liberty of an individual is a valuable constitutional right under Article 21 of the Constitution of India, the continued incarceration of the applicant would not serve any fruitful purpose. The balance between the interest of society and the rights of the accused can be maintained by imposing suitable conditions.

12. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant- Gulabsha Matin Shaikh is directed to be released on regular bail in connection with C.R. No. 426 of 2023, upon furnishing a personal bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one or two solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
- iii) The applicant shall mark her presence at Trombay

Police Station on first Monday of every month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

v) On being released on bail, the applicant shall furnish her current residential address and mobile number to the Investigating Officer and shall keep him updated, in case there is any change.

vi) The applicant shall regularly attend the proceeding before the jurisdictional Court.

vii) 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 the trial Court shall not be influenced by any of the observations made hereinabove.

viii) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

13. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)