



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.905/2025

(Farzana @ Anjum Ansar Qureshi Vs. The State of Maharashtra, through Police Station Officer, Police Station
Yashodhara Nagar, Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M.N. Ali, Advocate for the applicant.
Mr. Ujjawal Phasate, A.P.P. for non-applicant/State.

CORAM: MRS.VRUSHALI V. JOSHI, J.

DATED: 27.11.2025.

The applicant is arrested in Crime No.42/2023 for the offence punishable under Section 370 of the Indian Penal Code and Sections 75 and 81 of the Juvenile Justice Act.

2. The Assistant Police Sub-Inspector Ajay Gajre has received the information that during the remand of accused in Crime No.639/2022 Yogeshkumar Prajapati informed the police that in the month of July 2022 his wife Rita Prajapati delivered 5th child at General Hospital, Wardha. As the couple was poor and already had 4 children, co-accused with the help of the present applicant sold said daughter to one Sweety Gajbhiye for consideration of Rs.60,000/-. On the basis of the report, crime is registered against this applicant.

3. Learned Advocate for the applicant has submitted that the applicant is praying for bail on the ground of delay in trial and also on merits. The applicant is in jail since 2.2.2023. There is no progress in trial and on merits the offence under Section 370 of I.P.C. cannot be attracted against this applicant as there is no trafficking. The definition of exploitation is not applicable in this case and, therefore, the offence under Section 370 of I.P.C. would not be attracted. The

statement of the witness shows that she has adopted the child and has given Rs.50,000/- for expenses of the other children of the couple and, therefore, there is no trafficking. As the offence under Section 370 of I.P.C. would not be attracted and there is delay in trial, prayed to release the applicant on bail.

4. The applicant has relied on the judgment of this Court in Criminal Application (BA) No.872/2025 (Munnibai @ Chhunibai Dwarkaprasad Lilhare V/s. The State of Maharashtra) wherein this Court has relied on the judgment of the Hon'ble Apex Court in the case of Surendra V/s. State of Maharashtra (Criminal Appeal arising out SLP [Criminal] No.5139/2025) and Satendra Kumar Antil V/s. Central Bureau of Investigation reported in (2022) 10 SCC 51 and granted bail to said Munnibai. He has also relied on the judgment of the Hon'ble Apex Court in the case of Javed Gulam Nabi Shaikh V/s. State of Maharashtra and another reported in 2024 DGLS (SC) 668 wherein in para 19 following observations are made by the Hon'ble Apex Court:-

“19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

5. For the aforesaid reasons, the learned Advocate for the applicant prayed to release the applicant on bail.

6. The learned A.P.P. opposed the application stating that the applicant has given child on exchange of money. It was not adoption. The legal procedure for adoption is not followed. There is a

transaction of sale and purchase. It attracts the provisions of trafficking. Against other co-accused MCOC Act is registered. Therefore, there is delay in trial. Considering the gravity of the offence, prayed to reject the application.

7. Heard both sides and perused the record.

8. On perusal of the statement made by the witness, who has taken the child in presence of this applicant, that she has given the child to the couple for the expenses of the 4 children of the couple. The couple has given the child to the witness as they were already having 4 children and has delivered 5th baby. The witness was not having any child and, therefore, she has taken it in adoption. Considering the statement made by the witness, it appears that there is a monetary transaction but the witness has stated that she has given the amount to this applicant not for adopting the child but for the welfare of the siblings of the child to whom she has adopted.

9. The applicant is in jail since 2.2.2023. The status report was called. On perusal of the status report it appears that yet the charge is not framed.

10. Considering the observations made in the judgment of the Hon'ble Apex Court in the case of Javed Gulam Nabi Shaikh (supra) it is necessary to initiate the trial. It is the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution of India. If there is a delay because of the prosecuting agency bail cannot be opposed. Though the learned A.P.P. has stated about the registration of MCOC Act it is not against this applicant which is against co-accused in the other cases. Considering the stage of trial which is yet to be initiated and the applicant is in jail since about 3 years, case is made out to release the applicant on bail.

11. The Criminal application is allowed.

(i) Applicant - Farzana @ Anjum Ansar Qureshi be released on bail Crime No.42/2023 for the offence punishable under Section 370 of the Indian Penal Code and Sections 75 and 81 of the Juvenile Justice Act, on her furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with solvent surety in the like amount before the trial Court.

(ii) The applicant shall not in any way tamper with the prosecution evidence.

(iii) The applicant shall not pressurize or threaten the prosecution witnesses.

(iv) The applicant shall co-operate the learned trial Judge in the conduct of the trial.

(MRS.VRUSHALI V.JOSHI, J.)