

ITEM NO.1

COURT NO.7

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No. 729/2025 in
Crl.A. No. 1927/2025

[Arising out of impugned final judgment and order dated
15-04-2025 in Crl.A. No.1927/2025 passed by the Supreme Court
of India]

PINKI

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

Respondent(s)

WITH

Diary No(s). 20521/2025 (II)

IA No. 98701/2025 - INTERVENTION APPLICATION

Date : 27-05-2026 This petition was called on for hearing
today.

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HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

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UPON hearing the counsel the Court made the following
O R D E R

1. In pursuance of our order dated 08.04.2026, Ms.Aparna Bhat, the learned *Amicus* brought two things to our notice. First, she pointed out that all States have filed compliance report as directed by this Court in accordance with the prescribed BIRD format. Secondly, she brought to our notice that all States have constituted Review Committee as directed. Her only grievance is with regard to the remit of the Review Committee. According to her, only the State of Gujarat has said something regarding what the committee would do and how it would function. The other States however are silent on this aspect.
2. Today, in the course of further hearing, the learned *Amicus* has provided a detailed note which reads thus:-

"1. That on April 15, 2025, while disposing of a batch of

petitions challenging the grant of bail to certain persons accused of trafficking of children by kidnapping them and selling them through an organized network, this Hon'ble Court passed a series of directions. The status of compliance with respect to the same are as under:

<i>S. No.</i>	<i>Direction</i>	<i>Status of Compliance</i>
<i>1.</i>	<i>81 a) - "We direct the Chief Judicial Magistrate District Varanasi and the Additional Chief Judicial Magistrate Court No. 5 District Varanasi to commit all the three criminal cases referred to in para 9 of this judgment to the sessions court, within a period of two weeks from today without fail."</i>	<i>Complied</i>
<i>2.</i>	<i>81 b) - "Upon all the three criminal cases being committed to the court of sessions, the concerned trial court shall proceed to frame charge against individual accused persons within a period of one week thereafter."</i>	<i>Complied</i>
<i>3.</i>	<i>81 c) - "If it is brought to the notice of the trial court that some of the accused persons have absconded or their whereabouts are not known, the trial court shall take steps immediately to secure their presence by issuing non-bailable</i>	<i>Complied</i>

warrant etc. The trial of the absconding accused shall be separated in accordance with law so that the trial of the other co-accused persons do not get delayed."

4.

81 d) -

"Once the charge is framed by the trial court in individual cases, the concerned trial court shall proceed with the recording of the evidence preferably on a day-to-day basis and complete the proceedings of the trial within a period of six months."

Complied

5.

81 e) -

"We direct the State Government to appoint three special public prosecutors for the purpose of conducting of the trials well versed in criminal trials at the earliest."

N/A

6.

81 f) -

"We also direct the State Government to provide police protection to the victims and their families pending the trial at the earliest so as to prevent tampering of the evidence."

N/A

7.

81 g) -

"We grant two months' time to the State Police to trace out all those accused persons who have absconded and are on the run. They shall be apprehended and produced before the court concerned at the earliest."

Complied

8. 81 h) -
"We direct the State Government to ensure that the trafficked children are admitted in schools in accordance with the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and continue to provide support for their education."
Children eligible have been admitted.
9. 81 i) -
"At the end of the trial, the concerned trial court shall pass appropriate orders as regards compensation to the victims under the provisions of the BNSS 2023 including under the Uttar Pradesh Rani Laxmi Bai Mahila Evam Bal Samman Kosh managed by the Child Welfare Committee."
Complied.
10. 81 j) -
"All the State Governments across the country are directed to look into the report of BIRD dated 12.04.2023 more particularly the recommendations, as reproduced by us in para 34 of this judgment."
Detailed compliance chart annexed
11. 81 k) -
"All the State Governments are directed to study the entire report and start implementing each of the recommendations by working out appropriate modalities in that regard."
--do--
12. 81 l) -
"We direct all the High Courts Compliance

across the country to call for the necessary information as regards the status of the pending trials relating to child trafficking. Once each of the High Courts is able to collect the necessary data as regards the status of the trials, a circular thereafter shall be issued on its administrative side to all the concerned trial courts to complete the trials within a period of six months from the date of the circular and if need be, by conducting the trials on day-to-day basis. Each of the High Courts shall thereafter forward a report to this Court as regards the compliance of the directions contained in the circular." Chart annexed

13.

81 m) -

"Non-compliance of our directions or any laxity of any nature in that regard on the part of any of the authorities shall be viewed very strictly and if need be, they shall be proceeded for contempt."

14.

91 -

"If any newborn infant is trafficked from any hospital, the immediate action against the hospital should be suspension of licence to run the hospital over and above other actions in accordance with law. When any lady comes to deliver her baby in any hospital, it is the responsibility of the administration of the hospital to protect the newborn infant in all respects."

2. *In addition to the above, while disposing of the petitions challenging grant of bail to the accused in Pinki (supra), this Hon'ble Court suo moto took cognizance of a glaring case of child trafficking and passed some directions with respect to the same. The Delhi Police, who was the investigating agency in the case, was directed to file a status report relating to the case.*

3. *The affidavit filed by the Delhi Police brought out a new dimension to the crime inasmuch as many accused in the case had claimed to the police that they were "egg donors" and were associated with an IVF Centre. In the amicus curiae note that was submitted following this affidavit, the Hon'ble Court's attention was drawn to the discrepancy in the affidavit and more importantly the potential violation of the Assisted Reproductive Technology (Regulation) Act, 2021 (hereinafter referred to as the "ART Act").*

4. *This Hon'ble Court passed an order on 18.08.2025 directing the Delhi Police to examine the aspect relating to the violation of the ART Act and file a fresh status report. A status report has since been filed. Given the fact that the case pertains to an ongoing criminal investigation and a trial, at this juncture, this note is not dwelling into the possible issues in that case.*

5. *That vide orders dated 02.12.2025, 26.02.2026 and 08.04.2026, this Hon'ble Court has monitored compliance of the directions issued in the Judgement dated April 15, 2025. Status reports have been filed by all the States, and the reports filed by the states have been analyzed and collated*

in a tabular form.

6. *An analysis of the status reports filed indicate that most States and Union Territories have complied with the direction to form review committees, have disclosed steps they take for prevention, have disclosed the number of cases of child trafficking and have disclosed the infrastructure they have with respect to providing support to rescued children. However, the ground reality which the affidavits do not reflect is that there continues to be rampant trafficking, prevention processes and its impact cannot be tangibly identified and the status of prosecution of perpetrators is not commensurate to the number of children being trafficked. According to the 2024 NCRB report, there are over 6000 reported cases of trafficking and cases of missing children have increased by 7.8%. (98375 children missing in 2024 and the cumulative number of children who remain missing are 147175.) The overall resources that the states have for the purposes of addressing trafficking are unfortunately not exclusive but are part of the generic budgetary provisions for child protection. The affidavits do not address emerging trends in trafficking and preparedness of the States to address the same. Since the review committees are formed pursuant to the directions issued by this Hon'ble Court, the terms of reference for the Committee are unclear in most affidavits, except in the case of State of Gujarat. The State of Gujarat has provided the functions of the committee, periodic review meetings, and a reporting mechanism.*

7. *Vide order dated 26.02.2026, this Hon'ble Court directed the Union of India to file an exhaustive report about the steps being taken to give meaningful effect to the*

provisions of the ART Act as well as the details of how many cases have been registered under the Act in the last five years. This Hon'ble Court also directed the Union of India to indicate the steps taken so far to prevent commercialization of the ART Act and to indicate if there is any SOP for the purposes of inter-state coordination with respect to missing children. The Union of India has served (two filed and one served to the AC) status reports with respect to implementation of the ART Act and the key points that emerge from these two reports are:

- A. National Board as mandated under Section 3 of ART Act has been constituted*
- B. National Registry as mandated under Section 9 of the ART Act has been constituted and made operational w.e.f. 22.04.2022 which is supposed to act as the central database of all ART clinics, banks and surrogacy clinics in the country.*
- C. Number of registrations have been granted to clinics.*
- D. State/UT boards have been constituted in all the States and UTs under Section 6 of the ART Act.*
- E. Appropriate authorities have been constituted under Section 12 of the ART Act.*

According to the Status Report, there is no SOP currently existing for inter-state coordination in cases involving missing and trafficked children.

- 8. In this background, the issues that have arisen in this case can be crystallized as under:*
- a. Child trafficking and its emerging forms;*
 - b. Preparedness of the law enforcement to address the same;*

c. Structures put in place to prevent child trafficking;

9. Human trafficking has been identified as a crime and it has also been defined in the Bharatiya Nyaya Sanhita, 2023 under Section 143. The Ministry of Home Affairs has also declared the same as an "Organized Crime" by way of a notification. Section 143 of the Bharatiya Nyaya Sanhita defines trafficking of persons. It reads as under:

"143. Trafficking of person. (1) Whoever, for the purpose of exploitation recruits, transports, harbours, transfers, or receives a person or persons, by-

(a) using threats; or

(b) using force, or any other form of coercion; or

(c) by abduction; or (d) by practising fraud, or deception; or

(e) by abuse of power; or

(f) by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

Explanation 1. -The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, beggary or forced removal of organs.

Explanation 2. -The consent of the victim is immaterial in determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(4) Where the offence involves the trafficking of a child, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for

life, and shall also be liable to fine.

(5) Where the offence involves the trafficking of more than one child, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.

(6) If a person is convicted of the offence of trafficking of a child on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine."

10. The crime of trafficking has evolved over the years with people being trafficked for various purposes. The initially known and documented form of sex trafficking and trafficking for labor has now expanded to other forms of trafficking where humans are trafficked for diverse purposes like marriage, organ transplant, begging and in the last few years, forced criminality. The present case of Pinki versus State of Uttar Pradesh and others revealed an emerging trend where toddlers and babies were kidnapped and then sold ostensibly for adoption. The civil society organization which supported the three parents access law enforcement to help find their missing children and then prosecute the perpetrators, Guria Swayam Sevi Sansthan has filed a Writ Petition seeking directions for prevention and effective prosecution of the organized crime network being Writ Petition (CrL.) No. 43/2024 and the same is pending before this Hon'ble Court. Vide order dated May 22, 2026, this Hon'ble Court has directed the Petitioner in Writ Petition (CrL) No.43/2024 to make suggestions to the Committee

appointed by this Hon'ble Court in SLP (CrL) No.11263/2025, G. Ganesh versus State of Tamil Nadu.

11. A review of the affidavits of the States and the Union reveals that "Human Trafficking" is treated as "Organised Crime", Anti-Human Trafficking Units have been set up across the country with support from the Union Home Ministry, amendments have been made in the Penal Code and now the Bharatiya Nyaya Sanhita to include global definition of trafficking etc.

12. Anti-human trafficking units (AHTUs) which are set up in all the States and Union Territories are designated units to address human trafficking. However, their powers change from state to state, and in many states, they just perform administrative functions without even having the power of a police station. As per the compliance reports filed by the States, in 18 states and UTs, AHTUs have the power to register FIR. It is submitted that the NCRB report is dependent on the AHTUs to furnish data on human trafficking. It is further submitted that a Committee has been set up by this Hon'ble Court in G.Ganesh versus State of Tamil Nadu SLP (CrL) No. 11263/2025 to develop a SOP for dealing with cases of Missing Children. The Hon'ble Court has also expanded the scope of the Committee to make recommendations with respect to dealing with cases of Child Trafficking. It is submitted in the said case, that vide order dated May 22, 2026, this Hon'ble Court has directed that the AHTUs must be given all the powers.

13. That from the above, it is clear that there is an acknowledgment of the magnitude of trafficking, and the Union of India has shown intent to address the problem of

trafficking. However, there are significant gaps in the manner in which both the legislation and the implementation framework are able to address these issues. There is no mention of any process or provision for impact assessment or audit/review of the existing mechanisms and steps taken by the executive to prevent child trafficking in any of the affidavits submitted by the States and the Union Territories.

14. Human trafficking as a crime has assumed a gigantic form with its tentacles expanding in a rapid manner. Given that some of the issues raised in the present petition are also subject matter of cases before other benches of this Hon'ble Court, the note is confined to only two segments of this massive, organized crime:

- A) The role of the review committee, and*
- B) SOP to prevent trafficking misusing provisions of the ART Act and the Surrogacy (Regulation) Act, 2021.*

AREAS OF FOCUS FOR THE REVIEW COMMITTEE

15. PREVENTION: The peculiar nature of Trafficking warrants intervention at multiple junctions. It is also important to note that trafficking intrinsically has physical movement many times transgressing geographical borders. Consequently, law enforcement finds intervening effectively a challenge due to jurisdictional issues. A single crime of trafficking can spread across multiple states, making inter-state coordination critical to be able to address trafficking effectively. The BIRD report speaks of prevention extensively, and even though States have indicated that they have programmes for prevention of trafficking, examination of the affidavits did not reveal

robust prevention mechanisms. An ideal prevention strategy must anticipate trafficking based on past experience, identifying potential victims and creating a road map to ensure that they do not get trafficked. The review committees, hence, must put in place a series of interventions woven together to seamlessly track every child who has migrated/gone missing.

16. **REHABILITATION:** *The next aspect that the review committee must consider is effective rehabilitation to ensure that the child gets access to holistic care and also does not get re-trafficked. Effective rehabilitation will require skilled personnel who are able to engage with rescued children to understand their needs and develop their skills on the basis of their interest and background. In Re, Exploitation of Children in Orphanages of Tamil Nadu, 2017 (7) SCC 578, this Hon'ble Court reiterated that "Child Care Plan" must be prepared as soon as the child comes in contact with the Juvenile Justice system. A trafficked child is a "child in need of care and protection" and is brought into the system as soon as she gets rescued. The review committee must ensure that the "Individual Child Care Plan" is prepared for each child as soon as the child comes in contact with the system and this plan is continuously updated, monitored and implemented till such time the child is fully rehabilitated.*

17. *One of the key concerns relating to rehabilitation plans is an adequate budget made with an economic rationale to ensure that adequate resources are available for the child during the time the child is in contact with the Juvenile Justice System. These resources will have to be regularly scaled up to ensure that rehabilitation is*

effective and will completely prevent re-trafficking. It is humbly submitted that in order to draw up a plan which would ensure a seamless prevention programme, role of the agencies engaged in rehabilitation, allocation of adequate resources, an expert committee who is experienced in understanding the trafficked, has engaged in rehabilitation and has experience in financial planning for the state should be constituted.

18. It is most humbly submitted that there is a dire need for creating a workable mechanism to prepare:

- a. road map for prevention of trafficking;*
- b. design a functional rehabilitation program identifying the resources needed;*
- c. identify existing schemes from where the resources can be drawn from and recommend additional resources if required;*
- d. prepare a term of reference for the Review Committee which will include the tasks that can be assigned to the Review Committee, identifying emerging trends in trafficking peculiar to their region, recommending programs for the government to implement, supervise implementation of the plans and any other aspect that is brought to their attention to address trafficking.*

19. As far as the aspect of prevention of trafficking from the ART Centers is concerned, it was noticed that the Act provides for various authorities to be constituted. (National Assisted Reproductive Technology and Surrogacy Board (section 3), State Assisted Reproductive Technology and Surrogacy Board(section 6), National Assisted Reproductive Technology and Surrogacy Registry (section 9),

Assisted Reproductive Technology and Surrogacy Authority (Section 12)). Similarly, The Surrogacy (Regulation) Act, 2021 and the Rules made thereunder also provides for creation of monitoring boards. There are detailed provisions within the Act and rules relating to various aspects of health and infra-structure for running the programme. However, there is no reference to prevention of the crime of trafficking. In the note filed by the Union, there is reference to multiple structures set up under the Act for the purposes of monitoring. However, the work done by them, the number of times they meet in a year and their powers and their ability to persuade other agencies of the government are not clear. Moreover, as admitted by the Ministry, there is no SOP for prevention of trafficking. The recommendations made by them, if any, from the time they have been set up are also not placed on record. Given the way that the cases of trafficking are increasing in the ART Centers and the number of people opting for surrogacy and the sheer exposure of vulnerability of couples approaching these centers for wanting babies to parent and look after, these centers need advanced and critical guidelines to prevent the crimes. It will not be out of place to mention about the News Report dated 27.04.2026 which appeared in the Times of India, wherein a couple who had purchased a child had abandoned her believing the child brought 'bad luck' in Madhya Pradesh.

20. That in view of the fact that a co-ordinate Bench has set up a Committee which is looking into certain aspects of trafficking, this Hon'ble Court, in order to prevent duplicity may consider referring the aforesaid limited issues to a Committee comprising of 2 members of a CSO experienced in rehabilitating the trafficked and have been associated with the government and a bureaucrat serving or

retired who has experience in financial planning for the government. In addition to that, this Hon'ble Court may set up a Committee to prepare a SOP for prevention and prosecution of cases of trafficking arising out of ART and Surrogacy Clinics especially for implementing the provisions of Section 5 (c) and (d) of the Act. The Committee may be headed by a Retired Judge of this Hon'ble Court and must include a Medical doctor, preferably a Senior Obstetrician experienced in IVF Technology, a senior police officer and a lawyer/social worker familiar with dealing with cases of trafficking,

21. In conclusion, it is indeed a sad state of affairs that babies are traded like chattels and are abandoned for diverse reasons. The existing framework is unable to protect the children from being trafficked despite penal laws in force. A roadmap to prevent trafficking, a rehabilitation plan with adequate resources, and a SOP to prevent trafficking in the ART/ Surrogacy Centers is a dire need. The Committee may be directed to complete this exercise within eight weeks."

4. We request Ms.Archana Dave Pathak, the learned ASG to study the note in detail and give her response by the next date of hearing.

5. List on 19.08.2026 as Part-heard.

(CHANDRESH)
ASST.REG-CUM-P.S.

(POOJA SHARMA)
COURT MASTER (NSH)