

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE (RAILWAY)
ALIGARH

**Disposal of Bail Application Nos: 80/2021, 93/2021, 94/2021 & 95/2021 in Case Crime
No. 29/2021**

'Life is a gift of the creator, and should never be for sale'.

The present bail applications have been filed on behalf of accused Shambhu Sharma, Tauheed, Naseem Akhtar, & Nijam Ansari in Case Crime No. 29/2021 who have been charged under Ss: 370 (Trafficking of persons), 374 (Unlawful compulsory labour) of the IPC and S. 14 (3) (d) of Child Labour Act, 1986 and Ss: 75 & 79 Juvenile Justice Act 2015, & Ss: 16/17 Child Labour Act 1933, & Ss: 15, 17 of Epidemic Diseases (Amendment) Ordinance 2020. The Ld. defense counsel has pleaded that the accused are innocent and have committed no offence and that they have been falsely implicated and have no criminal history.

The prosecution story in brief is that on the basis of information received from GRP control room that in train no. 02549 North East Express minor children were being taken by the accused in different coaches from Bihar and Bengal for forced labour after registering FIR the police arrested the accused persons who were travelling in different coaches of the train along with 08 children who were being taken to Delhi for forced labor. According to the police the accused were arrested on the spot at the platform with the minor children, and could not give any satisfactory explanation for the same. According to the prosecution version the accused were travelling with the children in different coaches of the train and on being enquired the children stated that the accused were taking them for work.

Turning to the factual matrix of the case, the accused have been charged for offences under Sections: 370 (Trafficking of persons), 374 (Unlawful compulsory labour) of the IPC and S. 14 (3) (d) of Child Labour Act, 1986 and Ss: 75 & 79 Juvenile Justice Act 2015, & Ss: 16/17 Child Labour Act 1933 & Ss: 15, 17 of Epidemic Diseases (Amendment) Ordinance 2020.

I have given my thoughtful consideration to the respective submissions of learned counsel for the parties and have perused the record. Trafficking in persons, the dark side of population mobility, has been a cause of deep anxiety and concern for individuals, societies and economies alike. Human trafficking is widely recognized as one of the fastest increasing criminal industry worldwide, and therefore, poses a universal threat to individual human beings. Trafficking in persons separates families, erodes social bonds, support networks and undermines the economic prosperity of communities. The individual victims of trafficking endure atrocious living and working condition that physically injure, psychologically traumatize and, in some cases, cost victims their lives. Although trafficking most directly affects individuals, it also has broader consequences over the societies from which victims are removed, resulting in psychological, cultural, economic losses and threatening public health.

Under Article 43 of the Constitution of India trafficking in human is prohibited as held in *Geeta Kancha Tamang v. State of Maharashtra*, 2010 CRL. LJ 2755. Such Act constitutes the grossest violence of human rights of the victim child. In *State of Maharashtra v. Mohd. Sajid Hussain Mohd. S. Hussain*, Appeal (Crl.) 1402-1409 of 2007, decided on 10th October, 2007, Hon'ble Supreme Court observed that "immoral trafficking is now widespread. Victims, who are lured, coerced or threatened for the purpose of bringing them to the trade, should be given all protection". In this regard the Hon'ble Apex Court in *Lakshmi Kant Pandey v. Union of India*, (1984) 2 SCC 244 P.N. Hon'ble Bhagwati, J., observed:

"... It is obvious that in a civilised society the importance of child welfare cannot be over-emphasised, because the welfare of the entire community, its growth and development, depend on the health and well-being of its children. Children are a 'supremely important national asset' and the future well-being of the nation depends on how its children grow and develop..."

In the present case according to the prosecution version the accused have acted in an organised manner travelling in different coaches of the train with children and were involved in luring children from poor families by offering money and forced them into child labour. Total 08 children were rescued from the accused and have stated that they were being taken by the accused for work.

Hence considering the seriousness of the offence which is not only against individuals but against the society at large, the evidences on record, without touching the merits of the case, there are no grounds to enlarge the accused on bail.

ORDER

The bail applications filed by the accused are rejected.

Date: 08.07.2021

Aishwarya Pratap Singh
Addl. Chief Judicial Magistrate (Rly)
अपर अधिवक्ता (रिजिस्ट्रार) अलिगढ़

08/07/2021

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE (RAILWAY)
ALIGARH

Disposal of Bail Application Nos: 76/2021, 86/2021 & 87/2021 in Case Crime No.28/2021

'Life is a gift of the creator, and should never be for sale'.

The present bail applications have been filed on behalf of accused Mohd. Saddam, Prempal, Jameel Akhtar & Vinod Singh in Case Crime No. 28/2021 who have been charged under Ss: 370 (Trafficking of persons), 374 (Unlawful compulsory labour) of the IPC and S. 14 (3) (d) of Child Labour Act, 1986 and Ss: 75 & 79 Juvenile Justice Act 2015, & Ss: 16/17 Child Labour Act 1933. The Ld. defense counsel has pleaded that the accused are innocent and have committed no offence and that they have been falsely implicated and have no criminal history.

The prosecution story in brief is that on the basis of the inputs received from "Bachpan Bachao Aandolan" a team of GRP and RPF after registering FIR nabbed the accused persons who were travelling in different coaches of Kamakhya North East Express along with 15 children who were being taken from districts Katihar and Bulandshehar to Delhi and Punjab for forced labor. According to the police the modus operandi of the gang was that they specifically targeted the children from poor families and lured them by offering money, and then the children were taken to Delhi, Punjab, Haryana and other States and compelled them to do child labour. According to the prosecution version the accused were travelling with the children in different coaches of the train and on being enquired eight children stated that the accused were taking them for work.

Turning to the factual matrix of the case, the accused have been charged for offences under Sections: 370 (Trafficking of persons), 374 (Unlawful compulsory labour) of the IPC and S. 14 (3) (d) of Child Labour Act, 1986 and Ss: 75 & 79 Juvenile Justice Act 2015, & Ss: 16/17 Child Labour Act 1933.

I have given my thoughtful consideration to the respective submissions of learned counsel for the parties and have perused the record. Trafficking in persons, the dark side of population mobility, has been a cause of deep anxiety and concern for individuals, societies and economies alike. Human trafficking is widely recognized as one of the fastest increasing criminal industry worldwide, and therefore, poses a universal threat to individual human beings. Trafficking in persons separates families, erodes social bonds, support networks and undermines the economic prosperity of communities. The individual victims of trafficking endure atrocious living and working condition that physically injure, psychologically traumatize and, in some cases, cost victims their lives. Although trafficking most directly affects individuals, it also has broader consequences over the societies from which victims are removed, resulting in psychological, cultural, economic losses and threatening public health.

Under Article 43 of the Constitution of India trafficking in human is prohibited as held in *Geeta Kancha Tamang v. State of Maharashtra*, 2010 CRL. LJ 2755. Such Act constitutes the grossest violence of human rights of the victim child. In *State of Maharashtra v. Mohd. Sajid Hussain Mohd. S. Hussain*, Appeal (Crl.) 1402-1409 of 2007, decided on 10th October, 2007, Hon'ble Supreme Court observed that "immoral trafficking is now widespread. Victims, who are lured, coerced or threatened for the purpose of bringing them to the trade, should be given all protection". In this regard the Hon'ble Apex Court in *Lakshmi Kant Pandey v. Union of India*, (1984) 2 SCC 244 P.N. Hon'ble Bhagwati, J., observed:

"... It is obvious that in a civilised society the importance of child welfare cannot be over-emphasised, because the welfare of the entire community, its growth and development, depend on the health and well-being of its children. Children are a 'supremely important national asset' and the future well-being of the nation depends on how its children grow and develop..."

In the present case according to the prosecution version the accused have acted in an organised manner travelling in different coaches of the train with children and were involved in luring children from poor families by offering money and forced them into child labour. Total 15 children, who were less than 14 years of age were rescued from the accused and have stated that they were being taken by the accused for work.

Hence considering the seriousness of the offence which is not only against individuals but against the society at large, the evidences on record, without touching the merits of the case, there are no grounds to enlarge the accused on bail.

ORDER

The bail application filed by the accused is rejected.

Date: 08.07.2021

Aishwarya Pratap Singh
Addl. Chief Judicial Magistrate (Rly)
Aligarh