



2025:DHC:9637



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 28.10.2025
Date of Decision: 03.11.2025

+ CRL.M.C. 6327/2025

STATE NCT OF DELHI

.....Petitioner

Through: Ms. Meenakshi Dahiya, APP
for State with Ms. Divya Bakshi, Adv. with
SI Rakesh Kumar
versus

BIMLA

.....Respondent

Through: Mr Anuj Rajpal and
Mr. Nishant Anand, Advs.

+ CRL.M.C. 6328/2025

STATE NCT OF DELHI

.....Petitioner

Through: Ms. Meenakshi Dahiya, APP
for State with Ms. Divya Bakshi, Adv. with
SI Rakesh Kumar
versus

POOJA

.....Respondent

Through: Mr. Deepak Kohli, Adv.

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

%

1. The instant two petitions have been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ read with Section 482

¹ Hereinafter "BNSS"



2025:DHC:9637



of the Code of Criminal Procedure, 1973² seeking cancellation of bail granted to the respondents, Pooja and Bimla, vide orders dated 30.07.2025 and 22.07.2025 respectively. Since both the cases arise out of same FIR, this Court deems it appropriate to decide both petitions by way of a common judgment.

Factual Matrix

2. The present two petitions arise from the same criminal case, being FIR No. 178/2025, registered at Police Station - Uttam Nagar, Delhi, on 08.04.2025, under Sections 143(4)/61(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023³, and Section 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015⁴. The case relates to an alleged large-scale inter-state child trafficking racket involving the sale and purchase of new-born infants for monetary gain.

3. The investigation began on the basis of a secret information received by the Special Staff, Dwarka District, on 08.04.2025. Acting upon this information, a trap was laid near Uttam Nagar East Metro Station, Delhi. During the operation, three persons namely, Anjali, Yasmin, and Jitender Kumar were apprehended at around 12:35 p.m. Yasmin was found carrying a five-day-old male infant, which she immediately handed over to Anjali upon noticing the police. The child was rescued and sent for medical examination to Indira Gandhi Hospital, Dwarka. Consequently, FIR No. 178/2025 was registered on the complaint of one HC Praveen Kumar, Special Staff, Dwarka.

² Hereinafter "CrPC"

³ Hereinafter "BNS"

⁴ Hereinafter "JJ Act"



2025:DHC:9637



4. During the course of investigation, the car Hyundai Verna used in the incident and mobile phones of the arrested accused were seized. On interrogation, Yasmin disclosed that she had collected the recovered infant from the Rajasthan–Gujarat border from one Prabhu, on the directions of Jyoti and Saroj, who had given her ₹1.5 lakh to deliver to Prabhu. Out of this, Yasmin received ₹15,000/- as her commission.

5. Anjali, in her disclosure, revealed that she had earlier been arrested by the CBI in FIR No. 106/2024 for similar offences of child trafficking but was released on bail in March 2025. After her release, she rejoined the illegal trade with Saroj, Jyoti, and Pooja. Jitender Kumar, the third person apprehended at the spot, stated that he knew Anjali for long and had come to the spot to collect the infant from Yasmin as per the directions of Pooja.

6. The investigation thereafter expanded and exposed a trafficking syndicate spanning across Delhi, Rajasthan, and Gujarat. On 14.04.2025, police teams conducted raids in Udaipur (Rajasthan) and District Banas Kantha (Gujarat), where two more accused, Ranjit Bhai and Raviya (the biological father of the recovered infant), were apprehended. Both disclosed that, on the direction of Prabhu, Ranjit had purchased the infant from Raviya for ₹1.5 lakh. Out of this, Ranjit received ₹12,000/-, while Raviya was paid ₹1,38,000/-. The photograph of the infant was shared through WhatsApp with other members of the syndicate to finalize the deal.

7. Further arrests were made on 18.04.2025 of Saroj and Jyoti, who revealed that they were previously engaged in donating eggs at IVF centres, but due to the lucrative returns in child trafficking, they



2025:DHC:9637



began working with Prabhu. They admitted that Prabhu sent Yasmin to Rajasthan and Gujarat for collecting infants from poor families and that they had supplied two children to Pooja and one or two to Komal through her. Both Saroj and Jyoti earned ₹35,000/- – ₹40,000/- as commission per deal.

8. Following these disclosures, Pooja, one of the central accused, was arrested on 23.04.2025. During interrogation, Pooja confessed that she had initially been an egg donor and came in contact with Saroj, Jyoti, Komal, and Bimla, with whom she later started trafficking infants. She admitted that the roles and commissions of each member were fixed and that she had supplied two children to Bimla.

9. Acting on this information, the police arrested Bimla on 29.04.2025. From her instance, two minor children were recovered; one from Bhagwan Ram on 30.04.2025, and another from Balbir Singh on 04.05.2025. It was found that Balbir Singh was known to Jasleen @ Jyoti Gulati, who was also associated with Bimla. The investigation revealed that Bimla was in regular WhatsApp contact with Pooja, who acted as the primary link between suppliers and buyers.

10. It is the case of the prosecution that from the evidence gathered, the structure of the syndicate was uncovered where Prabhu and Ranjit were responsible for identifying and persuading impoverished families in rural areas of Gujarat and Rajasthan to sell their new-born babies for amounts between ₹1,00,000 to ₹1,50,000/-. Once a deal was confirmed, it is alleged that they informed Saroj and Jyoti, who then contacted Pooja in Delhi. Thereafter, Pooja is alleged to have been the



2025:DHC:9637



person who arranged the funds and directed Yasmin to collect the infants from Prabhu and Ranjit. Yasmin then delivered the children to Jyoti or Saroj, who handed them over to Pooja or Anjali, who ultimately sold them to prospective buyers in Delhi. In this entire operation, Bimla is alleged to have been acted as one of the buyers, thereby facilitating the final transaction.

11. The investigation also involved seizure of mobile phones, recovery of WhatsApp chats, financial transaction records, and video footage. The mobile phones were sent to FSL, Rohini, for forensic examination. DNA samples of the recovered infants and of accused Raviya and his wife Sumitra were also collected and sent for profiling and expert opinion. Prosecution has stated that the reports of the FSL would be submitted by way of a supplementary chargesheet.

12. A charge-sheet against 11 accused persons namely, Anjali, Jitender, Yasmin, Jyoti, Saroj, Pooja, Raviya, Ranjit Bhai, Balbir Singh, Bhagwan Ram, and Bimla was filed on 05.07.2025 before the Court of the learned ASJ/Trial Court and the matter was fixed for framing of charge on 29.08.2025. It was recorded that two accused, Komal Verma and Prabhu, remained absconding, and proceedings under Section 84 BNSS (proclamation for absconding offenders) were issued against them on 08.08.2025.

13. Subsequently, the learned Trial Court granted regular bail to seven of the accused persons namely Yasmin, Jitender Kumar, Pooja, Bimla, Bhagwan Ram, Balbir Singh, and Ranjit, while the bail applications of Anjali and Jyoti were rejected.

14. As regards the two petitions presently before this Court:



2025:DHC:9637



- a. The learned ASJ, in Bail Matter No. 1303/2025 (State vs. Bimla), vide order dated 22.07.2025, granted bail to accused Bimla, noting that she had been in custody since 29.04.2025, and that apart from the disclosure statements of co-accused, there was no direct recovery from her. The Court held that further custodial interrogation was not required and allowed her bail on furnishing bonds of ₹20,000/- each.
- b. The learned ASJ, in Bail Matter No. 1343/2025 (State vs. Pooja), vide order dated 30.07.2025, granted bail to accused Pooja, who had been in custody since 23.04.2025, observing that the recovered children were not found from her possession and that the charge-sheet had already been filed. She was also enlarged on bail on similar terms and conditions.

15. Aggrieved by these two bail orders, the State filed the present petitions under seeking cancellation of bail and setting aside of the impugned orders dated 22.07.2025 (in respect of Bimla) and 30.07.2025 (in respect of Pooja).

Submissions on behalf of the petitioner/State

16. At the outset, learned APP for the State, Ms. Meenakshi Dahiya, submitted that the present petitions have been filed seeking cancellation of bail granted to respondents Pooja and Bimla by the learned ASJ.



2025:DHC:9637



17. It is submitted that the case pertains to a heinous and organized racket of inter-state child trafficking, involving procurement and sale of newborn infants aged barely five to ten days, for unlawful monetary consideration. The learned APP drew attention to the charge-sheet filed against eleven accused persons out of thirteen named in the FIR, and highlighted that both respondents, Pooja and Bimla, are central figures in the criminal syndicate which extends from Delhi to Rajasthan and Gujarat.

Submissions qua Pooja

18. Insofar the respondent Pooja is concerned, it is urged that she is the main accused and operational head of the entire network. Her complicity emerges from the disclosure statements of co-accused Anjali, Saroj, and Jyoti, who stated that infants were supplied to Pooja after being procured from poor families in Rajasthan and Gujarat through middlemen Prabhu and one Ranjit. Pooja's role, it is contended, was not peripheral but central to the conspiracy, as she financed the procurement, fixed commissions, and arranged final delivery to buyers.

19. The learned APP pointed out that despite repeated demands by the Investigating Officer, Pooja's mobile phone could not be recovered as she destroyed her mobile phone, which clearly demonstrates her conscious intent to obliterate material evidence. The Call Detail Records⁵ obtained from the service providers reveal frequent contact between Pooja and other accused, specifically, 29

⁵ Hereinafter "CDRs"



2025:DHC:9637



calls with co-accused Bimla, 50 calls with Saroj from three different numbers, and continuous WhatsApp calls and chats with Anjali.

20. It is further submitted that money transactions between Pooja and other co-accused, namely Saroj, Komal, Bhagwan Ram, and Prabhu Bhai, are substantiated through evidence. On 27.03.2025, a transfer of ₹10,000/- was made by Bhagwan Ram to Pooja, followed by subsequent payments of ₹9,000/- and ₹1,100/- just three days after. A total of ₹5,00,000/-, as per disclosure of Bhagwan Ram, was made and the remaining amount was given in cash, which corresponds to the sale of an infant. The location of Pooja's mobile device was also found to be coincident at 7:00 P.M. at the same site where the child was handed over by co-accused Bimla to Bhagwan Ram, corroborating her active presence at the transaction site and in the crime committed; coordination with accused persons.

21. It is also submitted that two minor children supplied by Pooja to Bimla were recovered during investigation, and more infants remain untraced. The biological parents of the recovered children are yet to be located, and the FSL report is still awaited.

22. The learned ASJ ignored the seriousness of the allegations, the *modus* of commission of the offence, and the likelihood of tampering with evidence and influencing witnesses, thereby passing a non-speaking order in violation of the principles laid down by the Hon'ble Supreme Court in *Ashok Dhankad v. State (NCT of Delhi)*⁶. The learned Court failed to record any reasoning on the specific objections raised by the prosecution and dealt with the bail plea in a callous and mechanical manner. Thus, the impugned order is liable to be set aside.

⁶2025 SCC OnLine SC 1690



2025:DHC:9637



Submissions qua Bimla

23. Learned APP contended that Bimla is a key recipient and distributor of trafficked infants. Her role surfaced through the disclosure of co-accused Pooja, who stated that she had sold two infants to Bimla, both of whom were later recovered at her instance. One infant was recovered from the possession of Bhagwan Ram on 30.04.2025, and the other from Balbir Singh on 04.05.2025.

24. Further, a video recording retrieved from the mobile phone of Balbir Singh shows Bimla sitting beside a man holding an infant; the same infant later recovered from Balbir Singh. Public witness Jasleen @ Jyoti, in her statement under Section 183 of the BNSS, specifically named Bimla as being involved in procurement and sale of children, and stated that she was known in her neighbourhood for such illicit activities.

25. The State submitted that Bimla too destroyed her mobile phone, indicating guilt and an attempt to erase evidence. Her CDR establishes her connectivity with Pooja, as well as with public witness Jasleen and other accused persons. Given that several public witnesses, including Jasleen, are yet to be examined, and the fact that Bimla resides in proximity to them, there exists a real and tangible risk of intimidation and influence.

26. It is therefore argued that the impugned bail orders dated 22.07.2025 and 30.07.2025 suffer from perversity, non-application of mind, and a failure to consider the gravity of offence, possibility of witness tampering, and threat to the administration of justice. The State relied on the dictum of the Hon'ble Supreme Court in **Pinki v.**



2025:DHC:9637



*State of U.P.*⁷, wherein it was held that a lenient or casual approach in bail in cases of child trafficking jeopardizes the trial and endangers public safety. Hence, it is prayed that the bail granted to both respondents be cancelled.

Submissions on behalf of the respondents

Submissions qua Pooja

27. On behalf of the respondent Pooja, Mr. Deepak Kohli, learned counsel opposed the petition, submitting that the impugned order dated 30.07.2025 is well-reasoned and passed after due consideration of the material on record. It is argued that the allegations against Pooja are largely based on disclosure statements of co-accused, which, being inadmissible, cannot be the sole basis for cancellation of bail.

28. Learned counsel submitted that no recovery whatsoever was affected from Pooja, nor was any direct evidence such as CCTV footage or physical possession of an infant attributed to her. The purported CDR details, even if accepted, do not conclusively establish criminal conspiracy, as mere telephonic contact between persons does not imply complicity. Similarly, money transfers are of negligible value and cannot be presumed to be linked with any illegal act in the absence of forensic report or authenticated bank confirmation.

⁷(2025) 7 SCC 314



2025:DHC:9637



29. It is also submitted that the learned Trial Court, vide order dated 20.09.2025, framed charges against the respondents, wherein, Pooja was discharged under Section 111 of the BNS. From the same, it is made out that the learned ASJ did not find any credible evidence to proceed against Pooja, thus, the allegations advanced by the prosecution are untenable.

30. It is further contended that Pooja remained in custody from 23.04.2025 to 30.07.2025, and the charge-sheet has already been filed. Her continued detention was no longer necessary for investigation, and the learned ASJ rightly found no likelihood of her absconding or tampering with evidence as well as the fact that her antecedents are clean. It is also submitted that the judgment of *Pinki (Supra)* is distinguishable from the facts of the instant case as in the said judgment, children were kidnapped and sold, whereas in the present case, the child has been given in adoption. Even the Investigation Agency has recovered the Adoption Deed from the adoptive parents. Furthermore, no directions *qua* the present accused has been passed by the Hon'ble Supreme Court in the aforementioned judgment.

31. Learned counsel further submitted that the prosecution has not placed any material suggesting violation of bail conditions or misuse of liberty post-release. The present petitions, therefore, amount to a mere appeal in disguise against the grant of bail, which is impermissible in law unless there is supervening misconduct or perversity as recognized.

Submissions qua Bimla



2025:DHC:9637



32. On behalf of the respondent Bimla, Mr. Anuj Rajpal, learned counsel opposed the petition for cancellation of bail, asserting that the order dated 22.07.2025 is legally sound, balanced, and consistent with judicial discretion.

33. It is argued that the entire case against Bimla rests on the uncorroborated disclosure statement of co-accused Pooja, which by itself has no evidentiary value. No direct recovery of any child was made from her possession; rather, both recoveries were from third parties, i.e., Bhagwan Ram and Balbir Singh, who are independent accused.

34. It is further argued that the video allegedly showing Bimla with an infant is not supported by any forensic report and the alleged device was never seized from her possession. The so-called video cannot, therefore, be relied upon even prima facie. The respondent submitted that she is a middle-aged woman, having no prior criminal antecedents, and is the sole caretaker of her ailing husband. She has cooperated throughout the investigation, and there is no allegation of her evading summons or attempting to influence any witness.

35. It is also submitted that the learned Trial Court, vide order dated 20.09.2025, framed charges against the respondents, wherein, Bimla was discharged under Section 111 of the BNS. From the same, it is made out that the learned ASJ did not find any credible evidence to proceed against Bimla, thus, the allegations advanced by the prosecution are untenable.

36. It is further contended that bail, once granted, cannot be cancelled merely because the prosecution feels the order was erroneous, unless the order suffers from patent illegality or the



2025:DHC:9637



accused has abused the concession of bail. Reliance was placed on *Dolat Ram v. State of Haryana*⁸, wherein the Hon'ble Supreme Court held that cancellation of bail requires demonstration of subsequent misconduct, not re-appraisal of evidence. Therefore, it is urged that the petition filed by the State is devoid of any merit and is liable to be dismissed.

Analysis

37. Heard learned counsel for the parties and perused the material available on record.

38. The State contend that both accused are active members of an organized child trafficking syndicate, and that the learned ASJ failed to consider the gravity and seriousness of the offence, the likelihood of tampering with evidence, and the possibility of influencing witnesses.

39. The State has also relied upon the decision of the Hon'ble Supreme Court in *Pinki (Supra)*, wherein it was observed that such offences of child trafficking pose a grave threat to society and that bail in such cases should not be granted lightly.

40. As of now, out of the four infants involved, three have been rescued. The recovered infants' DNA samples are under examination at FSL Rohini.

41. The record of investigation, the charge-sheet, testimonies of witnesses and the disclosure statements reveal that on a *prima facie* reading, both these respondents form part of an interstate child

⁸(1995) 1 SCC 349



2025:DHC:9637



trafficking syndicate, operating between Rajasthan, Gujarat, and Delhi. The *modus operandi* adopted by the accused persons, as detailed by the Investigating Officer and noted in the charge-sheet, indicates a deliberate, systematic and profit-driven trade in human infants, sourced from extremely poor families and sold to willing buyers through a network of intermediaries.

42. The prosecution case discloses that Pooja acted as one of the core members who coordinated between suppliers such as Prabhu, Ranjit, Yasmin, and Saroj, and end-buyers or recipients like Bimla, Balbir Singh, and Bhagwan Ram. Her role extended to arranging funds, fixing prices, and managing logistics for the delivery of children. Her mobile phone data, WhatsApp chats, and call detail records⁹ reportedly establish active communication with several co-accused, including Anjali, Jyoti, Komal, and Bimla. The investigation also attributes to her the destruction of a mobile phone used for such communications.

43. The respondent Bimla is alleged to have purchased two infants supplied through Pooja. Both children were subsequently recovered; one from Bhagwan Ram on 30.04.2025 and another from Balbir Singh on 04.05.2025. The investigation thus directly connects Bimla with the sale and receipt of illegally trafficked infants.

44. It is also borne out from the record that both accused were arrested only after elaborate investigation and disclosures from multiple co-accused. The offences alleged are of grave and heinous nature, involving trafficking of new-born children, which not only

⁹ Hereinafter CDRs



2025:DHC:9637



endangers the rights and dignity of the infants but also undermines the social fabric. Such offences are categorically treated as serious threats to the public order and moral conscience of society.

45. The learned ASJ, while granting bail, appears to have been swayed by the fact that the charge-sheet had already been filed and that no further custodial interrogation was required.

46. However, this Court finds that the learned ASJ did not adequately consider the nature and gravity of the offence, the *modus* in which the offence was committed, and the possibility to influence the witnesses and the likelihood of tampering with the evidence as well as the propensity of the accused persons to commit similar offences.

47. Insofar the argument of the respondent Pooja is concerned where it has been argued that it is not the case of trafficking, instead, it is a case of adoption, this Court is of the view that the veracity of the said assertion and the documents, if there is any regarding the same, are yet to be established and the same cannot overshadow the allegations of child trafficking and supportive material at the stage of bail. Therefore, the said argument stands rejected.

48. The impugned orders also do not reflect any consideration of the parameters laid down by the Hon'ble Supreme Court regarding principles of grant of bail, enumerated in a catena of judgments and recently noted *Ashok Dhankad (Supra)*. Further, the impugned order also fails to take note of the judgment passed by the Hon'ble Supreme Court in *Pinki (Supra)* which deals with the rampant issue of child trafficking. When both the said judgments are read cumulatively, it is observed that bail in cases involving grave offences must be



2025:DHC:9637



approached with utmost caution, having regard to the serious societal impact and the likelihood of repetition of similar offences. The relevant paragraphs of *Ashok Dhankad (Supra)* are as under:

“2. The grant of bail constitutes a discretionary judicial remedy that necessitates a delicate and context-sensitive balancing of competing legal and societal interests. On one hand lies the imperative to uphold the personal liberty of the accused—an entrenched constitutional value reinforced by the presumption of innocence, which remains a cardinal principle of criminal jurisprudence. On the other hand, the court must remain equally mindful of the gravity of the alleged offence, the broader societal implications of the accused's release, and the need to preserve the integrity and fairness of the investigative and trial processes. While liberty is sacrosanct, particularly in a constitutional democracy governed by the rule of law, it cannot be construed in a manner that dilutes the seriousness of heinous or grave offences or undermines public confidence in the administration of justice. The exercise of judicial discretion in bail matters, therefore, must be informed by a calibrated assessment of the nature and seriousness of the charge, the strength of the prima facie case, the likelihood of the accused fleeing justice or tampering with evidence or witnesses, and the overarching interest of ensuring that the trial proceeds without obstruction or prejudice.

18. More recently, this Court in *State of Rajasthan v. Indraj Singh*⁷, while setting aside the bail granted to a person accused of an offence under Sections 419, 420, 467 of the IPC and Section 3 & 10 of the Rajasthan Public Examination (Prevention of Unfair Means) Act, 2022, placed reliance on an earlier decision of this Court in *Ajwar v. Waseem*⁸ and observed:

“8.3 The discussion made in *Ajwar v. Waseem*³ by a coordinate Bench of this Court (which included one of us, i.e., Amanullah J.) is on point. The relevant paragraphs are as under:—

“**Relevant parameters for granting bail**

26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of



2025:DHC:9637



the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer : *Chaman Lal v. State of U.P.* [*Chaman Lal v. State of U.P.*, (2004) 7 SCC 525 : 2004 SCC (Cri) 1974]; *Kalyan Chandra Sarkar v. Rajesh Ranjan* [*Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977]; *Masroor v. State of U.P.* [*Masroor v. State of U.P.*, (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368]; *Prasanta Kumar Sarkar v. Ashis Chatterjee* [*Prasanta Kumar Sarkar v. Ashis Chatterjee*, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765]; *Neeru Yadav v. State of U.P.* [*Neeru Yadav v. State of U.P.*, (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527]; *Anil Kumar Yadav v. State (NCT of Delhi)* [*Anil Kumar Yadav v. State (NCT of Delhi)*, (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425]; *Mahipal v. Rajesh Kumar* [*Mahipal v. Rajesh Kumar*, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558].]

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In *P v. State of M.P.* [*P v. State of M.P.*, (2022) 15 SCC 211] decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1) CrPC in the following words : (SCC p. 224, para 24)

“24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [*Dolat Ram v. State of Haryana*, (1995) 1 SCC



2025:DHC:9637



349 : 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.”

Considerations for setting aside bail orders

28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.”

(emphasis supplied)

19. The principles which emerge as a result of the above discussion are as follows:

(i) An appeal against grant of bail cannot be considered to be on the same footing as an application for cancellation of bail;

(ii) The Court concerned must not venture into a threadbare analysis of the evidence adduced by prosecution. The merits of such evidence must not be adjudicated at the stage of bail;

(iii) An order granting bail must reflect application of mind and assessment of the relevant factors for grant of bail that have been elucidated by this Court. [See: *Y v. State of Rajasthan* (Supra); *Jaibunisha v. Meherban* and *Bhagwan Singh v. Dilip Kumar @ Deepu*]

(iv) An appeal against grant of bail may be entertained by a superior Court on grounds such as perversity; illegality;



2025:DHC:9637



inconsistency with law; relevant factors not been taken into consideration including gravity of the offence and impact of the crime;

(v) However, the Court may not take the conduct of an accused subsequent to the grant bail into consideration while considering an appeal against the grant of such bail. Such grounds must be taken in an application for cancellation of bail; and

(vi) An appeal against grant of bail must not be allowed to be used as a retaliatory measure. Such an appeal must be confined only to the grounds discussed above.”

49. The Hon’ble Supreme Court’s judgment in *Ashok Dhankad (Supra)* addresses the principles governing the grant and cancellation of bail, especially in cases involving grave offences. The Hon’ble Court reiterated that bail is a discretionary judicial remedy requiring a careful balance between individual liberty and the interests of justice. While personal liberty is a constitutional value protected under Article 21, it must not be interpreted in a way that undermines the seriousness of heinous crimes or erodes public confidence in the justice system. The Court emphasized that liberty and societal order must coexist, and therefore, judicial discretion in bail matters must be exercised with due regard to the nature and gravity of the offence, the *prima facie* evidence, the likelihood of tampering with witnesses or evidence, and the necessity to ensure a fair trial.

50. In the aforesaid judgment, the Hon’ble Supreme Court found that the High Court erred in granting bail to the accused therein, without adequately considering relevant factors such as his conduct during investigation, the seriousness of the charges, and the possibility of influencing witnesses. The Court therein drew a clear distinction between setting aside an order granting bail (which examines whether



2025:DHC:9637



the order was perverse, illegal, or arbitrary) and cancelling bail (which concerns the accused's conduct after bail). Citing various other judgments, the Hon'ble Court held that an appellate court could interfere with a bail order if it overlooks material considerations or relies on irrelevant grounds.

51. The Hon'ble Supreme Court in *Ashok Dhankad (Supra)* observed that the accused therein had a history of evading arrest and that several prosecution witnesses turned hostile after he was granted temporary bail, raising concerns of influence and interference with the trial. Noting the "shocking and serious" nature of the allegations, the Hon'ble Supreme Court set aside the bail order and directed the accused to surrender. It reaffirmed that while the presumption of innocence remains, judicial discretion in bail must reflect fairness, awareness of societal impact, and respect for the rule of law.

52. For the sake of convenience, relevant paragraphs of *Pinki (Supra)* are reproduced herein:

"70. Considering the serious nature of the crime and the modus operandi adopted by the accused persons we are of the view that the High Court should not have exercised its discretion in favour of the accused persons. We are sorry to say but the High Court dealt with all the bail applications in a very callous manner. The outcome of this callous approach on the part of the High Court has ultimately paved way for many accused persons to abscond and thereby put the trial in jeopardy. These accused persons are a big threat to the society wherever they are in the country. They have exhibited a tendency of committing a particular nature of crime, namely, child trafficking. The least that was expected of the High Court while granting bail to all the accused persons was to impose a condition on each of them to mark their presence once in a week at the police station concerned so that the police can keep a check over the movements of all the accused persons. All that the High Court did was to direct the accused persons to remain present before the trial court. In none of the impugned orders there is a



2025:DHC:9637



condition of marking presence at the police station concerned as a result, the police lost track of all these accused persons.”

53. Adverting back to the instant case, the offences here involve an extensive conspiracy stretching across state borders, with multiple accused still absconding and some minor children yet to be traced. The evidence gathered so far including statements, digital communication records (WhatsApp), money trail, and recoveries indicate a well-mechanized racket. It is evident that the investigation, though substantially completed, yet, it remains ongoing with respect to other absconding accused and untraced infants. In such circumstances, release of main accused persons on bail might undermine the fairness and integrity of the continuing investigation.

54. It is also significant that both respondents are alleged to be repeat offenders and habitual participants in this illicit trade, having established prior contacts with other members of the syndicate. Their presence in the community poses a real possibility of them contacting witnesses or obstructing further proceedings. The apprehension of the prosecution that they may abscond or influence co-accused cannot be said to be unfounded.

55. Thus, upon careful scrutiny of the impugned orders, this Court finds that the learned Trial Court failed to assign cogent and sufficient reasons for exercising its discretion in favour of the accused. The orders are, on the face of it, mechanically passed, and contrary to the settled principles governing the grant of bail in offences of such gravity. The exercise of discretion, in the facts of the present case, is found to be arbitrary and unsustainable in law.



2025:DHC:9637



Conclusion

56. This Court notes that the offence alleged is not an isolated transaction but a well-planned, profit-driven syndicate in child trafficking. The investigation reveals a well-knit chain linking suppliers, couriers, and recipients across multiple States.

57. The material placed by the prosecution, disclosure statements, including CDRs analysis, recovered digital video, allegation of destruction of mobile phones by the accused person, money transactions, chargesheet having been filed, certain accused persons absconding, already recovered infants and that one infant is yet to be recovered, heinous nature of crime, and propensity of the accused persons to commit crime, *prima facie* indicates active complicity of both respondents. The magnitude and nature of the crime, involving commodification of newborns, warrants the highest degree of judicial scrutiny.

58. The impugned bail orders, however, do not demonstrate any analysis of the specific role of either respondent, the gravity of the offence, or the possibility of interference with witnesses. The orders merely observe that the charge sheet has been filed, and no further custody is required, which cannot suffice in an offence of this magnitude.

59. Therefore, this Court is of the view that the learned ASJ has ignored relevant factors, as discussed in the preceding paragraphs. This Court is thus satisfied that the impugned orders suffer from non-application of judicial mind, rendering them unsustainable.

60. In view of the foregoing discussions, on facts and law this Court is of the considered opinion that the impugned orders dated



2025:DHC:9637



22.07.2025 (granting bail to respondent Bimla in Bail Matter No. 1303/2025) and 30.07.2025 (granting bail to respondent Pooja in Bail Matter No. 1343/2025) suffer from non-application of judicial mind. The learned ASJ failed to appreciate the evidentiary material on its record, serious nature of the offences, the *modus* of the trafficking, and the larger implications on public interest and administration of justice.

61. Accordingly, both the petitions are allowed and the impugned bail orders dated 22.07.2025 and 30.07.2025 are set aside. The regular bails granted to respondents Bimla and Pooja are cancelled forthwith.

62. The respondents are directed to surrender before the concerned Trial Court within seven (7) days from the date of this order, failing which the learned ASJ shall take appropriate coercive steps to secure their custody in accordance with law.

63. It is, however, clarified that nothing stated herein shall prejudice the merits of the trial, and all observations made in this order are confined solely to the adjudication of the present petitions.

64. In view of the fact that the matter alleges involvement of a mechanized crime syndicate, which is running at inter-State level and that the crime involves trafficking of infants, this Court finds it prudent to direct the learned Trial Court for expeditious trial.

65. The petitions stand disposed of accordingly. Pending applications, if any, also stand disposed of.

AJAY DIGPAUL, J.

NOVEMBER 3, 2025/sk/ryp

Signature Not Verified

Signed By: SHU/PI CRL.M.C. 6327/2025 & CRL.M.C. 6328/2025
Signing Date: 03.11.2025
18:28:16

Page 23 of 23