THE HIGH COURT OF ORISSA : CUTTACK

No.XI-17/2025/.....10263...../ Dated.....20/06/2025.....

From;

Asanta Kumar Das,
Registrar General

To,

The District & Sessions Judge,.....(All)

Sub: **Expeditious disposal of child trafficking cases in compliance with the Judgment dtd. 15.04.2025 passed in Criminal Appeal No. 1927 of 2025 (Pinki Vrs. State of Uttar Pradesh & Anr.) by Hon'ble the Supreme Court of India**

Sir,

I am to apprise you that the Hon'ble Supreme Court of India, vide judgment dated 15th April, 2025 (copy enclosed), has expressed deep concern over granting of bail to child traffickers, a practice that has regrettably led to accused persons absconding putting the trial in jeopardy.

In light of the directions imparted in the said judgment, the Hon'ble Court have been pleased to issue the following instructions for expeditious disposal of child trafficking cases:

1. All Trial Courts with pending child trafficking cases are directed to complete the trials within six months from the date of issuance of this circular.

2. To ensure strict adherence to this six-month deadline, trials shall be conducted on a day-to-day basis until all the witnesses in attendance have been examined unless the Court finds that the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing.

3. All Judicial Officers dealing with child trafficking cases are instructed to adhere to these directions strictly. Any laxity or non-compliance will be viewed seriously, and proceedings for contempt may be initiated if deemed necessary.

4. When the witnesses are in attendance, no adjournment shall be granted without examining them, except for special reasons to be recorded in writing.

5. The concerned District & Sessions Judges shall regularly monitor the progress of these trials within their respective judgeships to ensure timely compliance with these directions and submit status report by 7th of each succeeding month.

I am, therefore, directed to request you to follow the aforementioned directions scrupulously to ensure justice for the victims and to deter the grave crime of child trafficking.

Further, you are requested to impart necessary instructions to the concerned Trial Courts with pending child trafficking cases to take all requisite steps for expeditious disposal of such cases and to submit a report to this Court, **by 15th September, 2025, positively**, through e-mail (rulesohc@gmail.com), for onward transmission of the same to the Hon'ble Apex Court.

Yours faithfully,

20.06.2025

REGISTRAR GENERAL

2025 INSC 482

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1927 OF 2025

(ARISING OUT OF SLP (CRL) NO. 4658 OF 2025)

PINKI **…APPELLANT(S)**

VERSUS

STATE OF UTTAR PRADESH AND ANR. **…RESPONDENT(S)**

WITH

CRIMINAL APPEAL NO. 1928 /2025
(Arising out of SLP(Crl.) No. 592/2025)

CRIMINAL APPEAL NO. 1929 /2025
(Arising out of SLP(Crl.) No. 590/2025)

CRIMINAL APPEAL NO. 1930 /2025
(Arising out of SLP (CRL.) 4660 / 2025)

CRIMINAL APPEAL NO. 1931 /2025
(Arising out of SLP (CRL.) 4661 / 2025)

CRIMINAL APPEAL NO. 1932 /2025
(Arising out of SLP (CRL.) 4662 / 2025)

CRIMINAL APPEAL NO. 1933 /2025
(Arising out of SLP (CRL.) 4664 / 2025)

CRIMINAL APPEAL NO. 1934 /2025
(Arising out of SLP (CRL.) 4665 /2025)

CRIMINAL APPEAL NO. 1935 /2025
(Arising out of SLP (CRL.) 4666 of 2025)

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Date: 2025.04.17 19:31:13 IST
Reason:

CRIMINAL APPEAL NO. 1936 /2025
(Arising out of SLP (CRL.) 4667/2025)

CRIMINAL APPEAL NO. 1937 /2025
(Arising out of SLP (CRL.) 4668 / 2025)

CRIMINAL APPEAL NO. 1938 /2025
(Arising out of SLP (CRL.) 4670 / 2025)

CRIMINAL APPEAL NO. 1939 /2025
(Arising out of SLP (CRL.) 4671 / 2025)

CRIMINAL APPEAL NO. 1940 /2025
(Arising out of SLP (CRL.) 4672 / 2025)

CRIMINAL APPEAL NO. 1941 /2025
(Arising out of SLP (CRL.) 4673 / 2025)

CRIMINAL APPEAL NO. 1942 /2025
(Arising out of SLP (CRL.) 4674 / 2025)

CRIMINAL APPEAL NO. 1943 /2025
(Arising out of SLP (CRL.) 4675 /2025)

CRIMINAL APPEAL NO. 1944 /2025
(Arising out of SLP (CRL.) 4676 / 2025)

J U D G M E N T

J. B. PARDIWALA, J.

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1. Leave granted in all the Special Leave Petitions.

2. Since the issues raised in all the captioned appeals are identical, those were taken up for hearing analogously and are being disposed of by this common judgment and order.

3. These appeals arise from various orders passed by the High Court of Judicature at Allahabad releasing 13 accused persons on bail in connection with FIR No. 201/2023, FIR No. 193/2023, FIR No. 76/2023, FIR No. 74/2023 and FIR No. 50/2023 respectively registered for the offence punishable under Sections 363, 311 and 370(5) of the Indian Penal Code (for short, the "**IPC**").

4. These appeals have been filed by the victims of the crime, more particularly the kith and kin of the children who came to be trafficked, praying for cancellation of bail granted by the High Court to the 13 accused persons referred to above. In all these appeals the respondent no. 2 is the particular original accused.

5. Although notice has been served to each of the accused persons, yet only three accused, namely, Santosh Sao, Jagveer Baranwal & Manish Jain appeared before this Court for the purpose of opposing the plea for

cancellation of bail. The others have thought fit not to appear either in person or through an advocate, to oppose these appeals seeking cancellation of bail.

6. We take notice of the fact that upon completion of investigation of all the three First Information Reports referred to above, chargesheets came to be filed in the Court of Special Chief Judicial Magistrate District Varanasi, Additional Chief Judicial Magistrate Court No. 5 District Varanasi and Chief Judicial Magistrate District Varanasi respectively.

7. The criminal cases, as on date, are pending for committal to the Court of Sessions. We also take notice of the fact that many of the accused persons, after being released on bail, have absconded and their whereabouts are not known to the police.

A. FACTUAL BACKGROUND

8. Before we proceed further, we must give a fair idea as regards the three FIRs.

i. FIR No. 193/2023 (in Sanjay v. State of Uttar Pradesh and Anr.).

a) The present case pertains to an interstate child-trafficking racket which profits from kidnapping, buying and selling of minor children, especially those children who come from an impoverished

background. The appellant, Sanjay is a rag picker residing in Varanasi. He was sleeping on the pavement with his wife and four-year-old son, Rohit. On the morning of 15.05.2023, they woke up to find that their son was missing. Initially, the police report indicated that the complaint filed by the appellant was one of a missing child, however, further investigation revealed that the case was one of child-trafficking as detailed in the Memo of Recovery in 193/2023 as follows:

> *"Today on 21/05/2023, I, Inspector incharge, Ramakant Dube with my companion SI Prakash Singh, SI Prabhakar Singh, SI Shivam Shrivastav, Constable Mrityunjay Prasad, Constable Shivnand in Government Jeep No. UP 65 AG 0882 with driver constable Mahender Patel, departed from Police Station for prevention of crime, night patrolling in search of wanted criminals, were present at the Kamachha crossing. That we received an information via an informer that the video regarding child kidnapping which was viral on social media, a person involved in kidnapping of the said child is heading towards garbage place on the way of Nawab Gan and could be caught if immediate action is taken. Believing this information, informed the fellow officials about this and after proper search of each other, reached the garbage place along with the informer and hidden ourselves behind garbage place and started waiting for the arrival of that man. After some time, a person was seen coming from the Ujala Hospital side. The informer pointed towards this man saying that he is the man who has stolen the child and went away from there. We police officials were waiting for that person to come closer. On coming more closer, we caught him immediately using all the necessary force. The caught person after being searched and enquired about his name and address stated his name as Santosh Gupta son of Tulsi Gupta resident of Sinduriya Pokhari Shivdaspur, Police Station Manduadih, age 42 years. When he was searched, then a Samsung keypad mobile no. 9260964142, IMEI 357116099227517/ 357117099227515 was found from right pocket of his pant*

and two notes of 50-50 rupees each were found from left pocket of his pant. On strict interrogation he stated that we have a gang. We steal small children and sell them in Rajasthan, Bihar, Jharkhand to childless couples with the help of our agents for two lakhs to ten lakhs and the amount received in equally distributed among us. On 14/05/2023 night at about 03:00 o'clock I and my accomplice Vinay Kumar Mishra son of late Rajesh Kumar Mishra resident of Sinduriya Pokhari, Police Station Manduadih, Varanasi stole a 4 year child sleeping in with a husband-wife on the road near Ram Chander Shukla crossing, took him in an Ertiga car vehicle no. UP 65 ER 5183 and kept him with my accomplice Sikha Modanwal wife of Sanjay Modanwal resident of Sinduriya, Shivdaspur, Manduadih Varanasi. We sell them with the help of agents who are already connected with us. I have sent the Ertiga Car vehicle No. UP 65 ER 5183 to Rajasthan to sell the child. I have removed the vest of the child whom we stole from Ram Chandra Shukla crossing and has kept it at my house and kept him with Shikha making him wear other clothes. Then we kept the child with our companions Mahesh Rana resident of District Kodarma, Jharkhand, Yashoda Devi wife of Mukesh Pandit resident of District Hazaribagh, Jharkhand, Sunita Devi wife of Mahesh Rana District Giridih Jharkhand and Mukesh Pandit, who help me to steal and sell the children and my son Shivam Gupta used to be with us in stealing and selling the children. Few days ago, we stole a Small Girl from Chowkaghat, a boy from under Alopibagh Over bridge, a boy and a girl from near Vindhyachal Station and a small boy from Nadesar and a small girl from Nagwa Lanka and sold them with help of my accomplices. Two children out of these were sold to Manish Jain, Paras, Ghanshyam and Jagbir Baranwal at Jaipur. Rest of the children have been sold to Sunita Devi, Yashoda Pandit, Mahesh Rana resident of Koderma, Mukesh Mandit and Mahesh Rana residents Giridih. I can get the vest of child, who was stolen by us from Ram Chander Shukla crossing, recovered from my home. Thereafter with the hope of recovery of the clothes of kidnapped child, we went to the house of the accused with the police force. The accused going ahead gave a dusty white colored vest near the cupboard, on the neck and arm of which, a black band was available and he stated it to be the vest of the same child

whom they stole on 14/05/2023. In the meantime, the complainant along with his wife arrived there and after looking at the vest, stated that this vest belongs to my son Rohit. He was wearing this same vest when he was stolen. The above-mentioned Vest was taken into police custody and kept with mobile in a plastic box and sealed and the currency notes recovered while searching were kept in an envelope and sealed. The accused was informed about his act as a crime under sections 363, 311 of IPC and he was taken into police custody at 4:00 o'clock. The orders and directions of Supreme Court and National Human Rights commissions were strictly obeyed during arrest and recovery. The memo was prepared on directions of me the inspector in the light of torch and streetlight by SI Shivam Shrivastav. Arrest memo was prepared on spot. The information of arrest of the accused was given to his father-in-law Gopal Shah. Memo is being read over and signatures are being obtained from all concerned. A copy of memo is being given to the accused."

b) There are in all 14 accused persons who have been chargesheeted in connection with FIR No. 193/2023 registered with P.S. Bhelupur, Varanasi referred to above. Out of the 14 accused persons, the bail of 5 accused persons have already been cancelled by this Court.

c) The chargesheet came to be filed against the accused persons on 17.07.2023 for the offence punishable under Sections 363, 311, 370(5) of the IPC. However, the charges are yet to be framed on account of the persistent failure on part of the accused persons in to appear before the concerned trial court.

d) The High Court had granted bail to several accused persons, namely Sunita Devi, Gudiya Devi, Manish Jain, Mahesh Rana s/o Ramlal Rana, Sangeeta Devi, Anuradha Devi and Santosh Sao, *vide* orders

dated 12.12.2023, 04.10.2023, 21.11.2023, 08.11.2023, 15.12.2023, 15.12.2023, 09.11.2023, respectively, which were challenged before this Court *vide* SLP (Crl.) Nos. 1041–1047/2024. Subsequently, *vide* order dated 24.09.2024, this Court was pleased to set-aside the orders granting bail to the accused persons in SLP (Crl.) No. 1041, 1042, 1044, 1045 and 1046/2024 respectively, with the direction to the accused persons to surrender forthwith. The Special Leave Petition bearing SLP (Crl.) No. 1043/2024 (R2- Manish Jain) and Criminal Appeal bearing CRL.A. No. 4002/2024 arising out of SLP (Crl.) No. 1047/2024 (R2-Santosh Sao) are before us for consideration. Since the accused persons in SLP (Crl.) No. 1041, 1042, 1044, 1045 and 1046/2024 respectively, failed to surrender and no action was taken by the police in furtherance to the aforesaid order, a Miscellaneous Application bearing No.309/2025 came to be filed seeking appropriate directions to the State Police machinery to file a status report. It was only after this Court directed the respondent State to file an affidavit indicating the steps taken to comply with the aforesaid order, that the necessary action was taken to arrest the accused persons. They were arrested after more than five months from the passing of the order. It is pertinent to mention that the accused persons failed to surrender despite non-bailable warrants (for short, "**NBW**") being issued against them from the Court of the CJM, Varanasi. As per the status report

filed by the State, five accused persons, namely, Sunita Devi, Gudiya Devi, Mahesh Rana s/o Ramlal Rana, Sangeeta Devi and Anuradha Devi have been arrested.

ii. <u>FIR No. 50/2023 (in Samsher Singh v. State of Uttar Pradesh and Anr.)</u>

a) The present case also pertains to the interstate child-trafficking racket which is alleged to have been run by the same accused persons against whom FIR No. 193/2023 was registered at P.S. Bhelupur, Varanasi. During the police investigation of FIR No. 193/2023, the present FIR No. 50/2023 came into the light. The appellant, Samsher Singh is a labourer who makes his living while taking shelter on the streets under Andhrapul Bridge in Varanasi. On 28.03.2023, his one-year-old daughter, Mohini, was kidnapped and upon realizing the same, the appellant and his wife started searching for their child frantically but were unable to locate her. Desperate and with no leads, the appellant filed a police complaint on 29.05.2023 at P.S. Chetganj, Varanasi.

b) There are 7 accused persons who have been chargesheeted in FIR No. 50/2023 registered at P.S. Chetganj, Varanasi. Out of the 7 accused persons, the bail orders passed by the High Court of 3 accused persons are under challenge before us.

c) The chargesheet came to be filed against the accused persons on 16.09.2023 for the offence punishable under Sections 363, 311 and 370 of the IPC. Thereafter, supplementary chargesheets dated 19.03.2024, 05.06.2024 and 12.08.2024 respectively, came to be filed under Sections 363, 311 and 370 of the IPC respectively. However, the charges are yet to be framed on account of nonappearance of the accused persons before the court concerned.

d) It is only after the intervention of this Court that the child was traced and found on 20.03.2025 from the custody of accused Anil Prasad Baranwal, R/o Krishna Nagar, Kolkata, West Bengal.

iii. <u>FIR No. 201/2023 *(*in Pinki v. State of Uttar Pradesh and Anr.)</u>.

a) The present case also pertains to the interstate child-trafficking racket which is run by the same accused persons against whom FIR No. 193/2023 was registered at P.S. Bhelupur, Varanasi. During the police investigation of FIR No. 193/2023, it was revealed that the present FIR No. 201/2023 had been registered at P.S. Cantt., Varanasi against the gang members of the same child trafficking racket. On 29.04.2023, Smt. Pinki's one-year-old child, Bahubali, was kidnapped from Nadesar Cantt., Varanasi while the minor boy-child was sleeping beside the appellant (Smt. Pinki), by the same members of the

organized interstate child-trafficking ring. Upon discovering that her son went missing at 2:30AM, the appellant filed a police complaint the following day at P.S. Cantt., Varanasi, leading to the registration of FIR No. 201/2023 dated 30.04.2023. Initially, the police report indicated that the complaint filed by the appellant was one of a missing children, however, further investigation revealed that the case was one of child-trafficking as detailed in the Memo of Recovery in FIR No. 201/2023 as follows:

> *"Today on 02/06/2023, I SI Saurabh Pandey along with my companion SI Vaibhav Shukla, Constable Anuj Kushvaha and Lady Constable Rubi Singh, departed from Police Station Cantt, Commissionerate Varanasi on dated 29/05/23 via GD 070 for investigation of present case and in hope of recovery of kidnapped child and arrest of accused as per the information provided by the accused arrested in FIR no. 193/23 Under Section 363/177/370(5) IPC namely Shikha Gupta and Manish Kumar Jain etc, for searching and clue, reached at Police Station Chandwara, District Kodarma, Jharkhand on 30/05/2023 and with the help of local police were busy in attempt to recovery of child and arrest of accused, then from Police Station Cantt constable Prem Shankar Patel and SI Anand Chaurasiya, Constable Sachin Singh, Constable Sumit Sahi Police Station Bhelupur, Commissionerate Varanasi and SI Ram Upadhyay, Constable Ejaz Hussain Police Station Chetganj, Commissionerate Varanasi met us at Chandwara Highway in search of kidnapped children and in search of clue. At that time from Prayagraj Police SI Pavan Kumar Singh with his companions SI Vikas Yadav with SOG SI Dinesh Singh, Constable Rakesh Dube, Constable Piyush Vajpeyi, Driver Manoj Kumar Singh in vehicle no. UP70AG2572, with team in search of child Shani Bind related to FIR no. 76/23 under Section 363 IPC Police Station Daraganj, Commissionerate Prayagraj, met with us. There only, Inspector Madhav from Mirzapur police along*

with Head Constable Lal ji Yadav, Constable Brij Kishore Sharma, SI Daya Shankar Ojha, lady Constable Raksha Yadav, Driver Constable Prabhu Narayan with vehicle UP 32 BG 7504 in FIR no. 74/23 Under Section 363 IPC Police Station Vindhyachal, District Mirzapur for searching the kidnapped child Kajal, met with us. We all police officials after sharing the information about kidnapped children and arrest of accused, with the help of Chanwara Police, for searching of kidnapped children and arrest of accused, were present at highway. Then an informer came and told us that Anuradha Nurse, you are searching for, is present at highway in front of Global Nursing home for going somewhere, if you move immediately then she might be caught. On believing this information, after joint planning, we all police officials moved ahead with informer. On highway only, signalling towards a lady, the informer told that she is Anuradha Nurse whom you are searching and then the informer went away from there. Then we police officials went ahead towards that lady. That lady was enquired about her name and address with the help of lady constable Rubi Singh and also was searched. Then she stated her name as Anuradha Devi wife of Yogender Singh aged 37 years resident of Village and Post Office Lupung, Police Station Katkam Sandi, District Hazaribagh, Jharkhand. While searching two android mobile were found from her left hand (1) Oppo CPH2269, IMEI No. 86205005576687J/S62050055766881 and (2) Samsung SM-GEIOF, IMEI- 358972081446914/358973081446912 were recovered. Informing about the above-mentioned incident, questions were asked from above mentioned Anuradha, then she told that I have purchased many children through Madan Baranwal, Manish Jain, Jagvir Baranwal, Ghanshyam and Gudiya and sold ahead. Then I, the SI, asked her about the child who was stolen from Nadesar Cantt after showing his picture in the mobile then she said that this one year baby was sold to me by Jagvir in 2.5 Lakh rupees. I have sold this child further in 3.5 lakh through Kuldeep Paswan resident of Markacho to his some known one. After that the picture of the child stolen from Prayagraj was shown to Anuradha and she replied that she had sold this child to Santosh Sao of Majhgawan and still the child is with him. Thereafter Bhelupur police and SI Ram Upadhyay asked her about the girl child stolen from

Choukaghat, Varanasi, then she said that about this girl, only Madan Baranwal can tell you about this child who is the relative of Jagvir and Manish Jain. After that the Mirzapur police showed the picture of the girl child kidnapped from their area and enquired about her, then Anuradha said that Jagvir and Gudia had sold a four-five years old child to her in 45 thousand rupees and she sold her to Sangeeta wife of Tulsi Rana resident of Pogdanda working at Health sub center. I was involved in the purchase and sale of many other children. I can get recovered the children kept with Santosh and Sangeeta and can get Jagvir and Gudia arrested. Thereafter, after keeping Anuradha under supervision, we reached the place told by her at Manjhgawa at the house of Santosh Sav where Anuradha signalled towards a person who was carrying a child and told that this is the same child who was stolen from Prayagraj. On this we police officials enquired about the child from Santosh Sav through different questions. He stated his name as Santosh Sav son of Bihari Sav aged 37 years, resident of Manjhgawa, Post Office Kako, Police Station Tilaiya Dam, District Kodarma, Jharkhand and when he was asked about the child strictly then he stated that he purchased the child for Rs. 4 lakh from that Anuradha who has come with you. Thereafter SI Pavan Kumar Singh sent the photo of child to her parents and got the child identified through video call from his father Vishnu Bind where he identified the child as his son Shani Nishad and the child also started weeping after getting emotional while seeing his parents on video call. Thereafter the child was taken in security by Constable Piyush Vajpeyi and Santosh Sav was kept in supervision of Constable Rakesh. We police officials moved ahead with all of them. Anuradha further informed that the baby of Vindhyachal is still with Sangeeta Devi. On believing her, we departed for the village of Sangeeta Devi namely Pogdanda. Outside of village only we saw a lady carrying a child in her lap. Signalling towards her Anuradha told that she is Sangeeta and the same child, about whom she was telling about. Thereafter, that lady was asked about her name and address and about that child with the help of Lady Constable Raksha Yadav. She told that my name is Sangeeta Devi wife of Tulsi Ram, age 34 years, resident of Village Pogdanda, Police Station Jainagar, District Kodarma. A mobile from her left hand

Samsung Galaxy MOIS, IMEI 356148114500231/ 356149114500239, Mobile No. 990595469 was recovered. On being enquired about the child, she stated that she had purchased the child for Rs. 55 thousand from the same Anuradha who was with us and now I was going to searching a customer for selling the child while you caught me. Thereafter, the recovered child was handed over in security of Constable Prem Shankar Patel and Sangeeta Sao was handed over in the monitoring of lady constable Raksha Yadav and departed in search for the house of Gudiya as per the information given by Anuradha and after informing Police Station Tilaiya, reached the house of Gudiya at Gandhi School Road, Tilaiya, Kodarma. Where she was found present. She was brought with lady constable Rubi Singh after informing Police Station Tilaiya, we departed towards Police Station Chandwara. We reached near Chandwara Police Station, a person was walking on the road, signaling towards whom Anuradha said that he is Jagvir about whom I was telling. Thereafter that person was stopped by us and he was told about the incident and inquired. Then that person was shocked on seeing Anuradha, Gudiya, Sangeeta and recovered children and accepted his mistake and apologized for his mistake and told that my name is Jagvir Baranwal son of Sahdev Modi, aged 41 years resident of village Mahugai, Post Office and Police Station Chandwara, District Kodarma, Jharkhand. One of my relatives is Manish Kumar Jain resident of Jaipur, through him I came into contact with a lady from Banaras namely Shikha Gupta who with the help of her companions Vinay, Tannu and Santosh steal children and used to give to me and I with the help of Gudiya and Anuradha sell them after finding customers. Thereafter Jagvir Baranwal was searched and from his right hand a Galaxy A 30S, IMEI 35857711144744/ 358578101144742 android was found. Then Gudiya, who was with us, apologized stating that she knew Madan Baranwal, Jagvir Baranwal, Manish Jain and Anuradha for a long time and I help to sell children with help of them and I receive commission for that. My name is Gudiya Devi wife of Sakal Dev Yadav, age 30 years, resident of Gandhi School Road, Tilaiya, Kodarma. Sir, I also have a keypad mobile, I am giving the same to you. When keypad mobile was seen, it was of blue colour NOKIA keypad mobile IMEI of which is 357749105458963. Santosh

Sao who was present with us also recovered a keypad mobile. When it was seen, it was found black colour Itel Mobile, the IMEI of which is 357278443860326/ 357278443860334. The accused present on spot Jagvir Baranwal and Santosh Sav above mentioned and accused Anuradha Devi, Sangeeta Devi and Gudiya Devi above said were told about the sections 363/311/370 IPC and taken into police custody at 11:05 hrs. During the arrest and recovery of children, people were gathered there who were told for witness but in fear of evil and good, they went away from there. The orders and directions of Supreme Court and Human Rights commissions were obeyed. Memo of recovery and arrest was prepared on spot and was read over and signature are being obtained and recovered mobiles phones were sealed and stamped. Information of arrest will be given to the family members through proper channel. A copy of memo for accused is being given to Jagvir Baranwal with their consent."

b) There are ten accused persons who have been charge-sheeted in connection with FIR No. 201/2023 registered at P.S. Cantt., Varanasi. Out of the ten accused persons, the bail orders of three accused persons have been cancelled by this Court in proceedings arising out of FIR No.193/2023. The legality and validity of the bail orders passed by the High Court as regards six co-accused is now falling for our consideration.

c) The chargesheet came to be filed against the accused persons on 07.09.2023 for the offence punishable under Sections 363, 311 & 370(5) of IPC respectively. However, the charges are yet to be framed on account of non-appearance of the accused persons before the court concerned.

9. The details of the committal court proceedings as regards the aforementioned three FIRs are as follows:

> *"**i. FIR No. 193/2023***
> *Before Special CJM, District Varanasi*
> *Criminal Case No. 93745/2023*
> *Cause Title: State v. Anuradha Devi & Ors.*
> *Stage: For Committal*
> *NDOH: 21.04.2025.*
>
> ***ii. FIR No. 50/2023***
> *Before Additional CJM, Court No. 5, District Varanasi*
> *Criminal Case No. 113651/2023*
> *Cause Title: State v. Manish Jain & Ors.*
> *Stage: For committal*
> *NDOH: 01.04.2025*
>
> ***iii. FIR No. 201/2023***
> *Before CJM, District Varanasi*
> *Criminal Case No. 118963/2023*
> *Cause Title: State v. Kuldeep Paswan @ Kuldeep Ram & Ors.*
> *Stage: For committal*
> *NDOH: 03.04.2025"*

B. CHILD TRAFFICKING

i. Global Context

10. The UN Convention on the Rights of the Child, 1989 (CRC), recognises the importance of family and the importance for a child to grow in a family environment.[1] It also casts a duty on the State to ensure that children should not be separated from their parents against their will except when it is in the best interests of the child. Adoption is considered an alternate care

[1] Convention on the Rights of the Child arts. 7 & 8, Nov. 20, 1989, 1577 U.N.T.S. 3.

mechanism for children who are unable to live with their parents due to various circumstances and adoption is preferred over institutionalisation.

11. In 1993, The Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption[2] was introduced to have a global regulatory system to ensure that adoptions take place through a state approved mechanism and inter-country adoptions take place after exhausting adoption/placement opportunities domestically. The principle of "*subsidiarity*" is one of the guiding principles of this Convention. The States which have signed and ratified these conventions have also framed domestic regulations conforming to the International Conventions and created institutions to implement the same.

12. In the year 2000, there was a global acknowledgement of trafficking in persons was taking diverse forms and hence, it was collectively decided that studying and recognising the trafficking processes vis-à-vis the purpose for which such trafficking was being done, was important. This enabled recognising a pattern used by traffickers for different end results. In the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children" supplementing the UN Convention

[2] Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, May 29, 1993, 1870 U.N.T.S. 167.

against Transnational Organised Crime, "*trafficking*" has been defined under Article 3 of the Protocol as follows:

> *"(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*
>
> *(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*
>
> *(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;*
>
> *(d) "Child" shall mean any person under eighteen years of age."*

13. Over the years, demands for adoption of children have increased and there is a significant waiting period for prospective parents to adopt. At any given point in time, there are parents waiting for at least 3-4 years to adopt. Even after being processed and children being matched, the necessary verification processes also take a long time. Such long delays have created an increase in the demand for children who are declared legally fit for

adoptions, and has consequently attracted trafficking of children for the purpose of adoption.

14. In 2016, in her thematic report, the UN Special Rapporteur on the sale of children, child prostitution and child pornography, documented illegal adoptions and concluded that "*adoptions resulting from crimes such as abduction and sale of and trafficking in children, fraud in the declaration of adaptability, falsification of official documents or coercion, and any illicit activity or practice, such as lack of proper consent by biological parents, improper financial gain by intermediaries and related corruption, constitute illegal adoptions and must be prohibited, criminalised and sanctioned as such*".[3] The Report documents demand for children as a major enabling factor for the criminal networks to engage in large scale abduction and sale of children.

15. There is global recognition for the duality of the crime committed during the course of illegal adoption, namely, illegal adoption where the parent has participated in the commercial transaction of transferring custody of the child or cases where the parent does not have any financial gain but the adoption itself is illegal.

[3] Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, U.N. Doc. A/HRC/34/55 (Dec. 22, 2016).

16. There are sporadic reports of cases of kidnapping for placing children in adoption. A documentary filmmaker has written about cases in China where children went missing/were kidnapped and placed in adoptions in the United States.[4] There are various reports of Ukrainian children being kidnapped and placed in Russia and Guatemalan children kidnapped and placed in illegal adoptions abroad.

ii. Child Trafficking in India

17. Article 23 of the Constitution of India recognises trafficking and prohibits the same. Article 23 reads thus:

> *"**23. Prohibition of traffic in human beings and forced labour.***
> *1.Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.*
>
> *2. Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them."*

18. The identification of forced labour, specifically in 1950 indicates that at that time, trafficking was confined to certain forms. Trafficking in Persons (for short, "**TIP**") in India has taken diverse forms and almost each of them is prevalent across the country. An overall analysis of trafficking patterns

[4] Charlie Custer, Kidnapped and Sold: Inside the Dark World of Child Trafficking in China, The Atlantic (July 25, 2013).

across states reiterates the prevalence of trafficking in large numbers with the number of cases sharply rising with time. What is of concern is the rapid spread of the problem with previously unknown factors getting embedded in the web of traffickers. Changing trafficking patterns have brought along changes in the traffickers, their modus operandi, their manipulation of the victims and their understanding of the limitations in the criminal justice system. As the instances shared hereinabove indicate, the traffickers are operating with impunity and have deftly adapted to the advances in technology using it to their benefit.

19. Following the definition in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the UN Convention against Transnational Organised Crime and after signing and ratifying, Indian government adapted by way of an amendment in 2013 to the Penal Code added Sections 370 and 370A of the Indian Penal Code. Subsequently, the enactment of the new criminal laws essentially replicated the same provisions that were existing as Section 370 and 370A of the IPC respectively into Section 143 and 144 BNS respectively.

20. Trafficking in persons now is more expansively defined. In addition to the conventional understanding of trafficking being synonymous to sex trafficking and forced labour, trafficking includes other forms as long as there is "recruitment, transportation, transfer, harbouring or receipt of

person" for the purposes of exploitation using threat, using force, forms of coercion, abduction, fraud, deceit, abuse of power or vulnerability or consideration to get consent. The definition is inclusive in nature giving room for emerging forms of exploitation to be included as TIP. Consequently, an exercise to understand the expanse of trafficking needs to intrinsically examine the means of the process of engagement without getting limited to the form.

21. In the present child kidnapping racket, the traffickers are well networked through their smartphones sharing information, photographs, transferring money, sharing locations etc. Their operations, the relative ease with which they are able to operate and procure buyers for selling the children outside their states indicate that they are aware of the technology, they recognise demand, and they recognise the need to operate as a network.

22. It is critical to note the number of cases that were tracked in such a short time span. This indicates that these kidnappings have been taking place in large numbers on a regular basis and there is an urgent need to consolidate these cases and examine them to be able to identify patterns.

23. Child selling is not new to this country. There was a time when children were being sold as part of inter-country adoptions and this Court had passed detailed judgements acknowledging the same. This Court in ***Lakshmi Kant***

Pandey v. Union of India reported in **(1984) 2 SCC 244** dealt with the issue of malpractices and trafficking in children in connection with adoption of Indian children by foreigners and its commercialisation. This Court took note of the fact that large amounts were being demanded by ill-equipped and sometimes even undesirable organisations or individuals camouflaging trafficking and sale of children as inter-country adoption. In order to protect the welfare of children, this Court, in consultation with several social and child welfare institutions, laid out a comprehensive framework of normative and procedural safeguards for regulating inter-country adoption as protection against abuse, maltreatment or exploitation of children and to secure them a healthy, decent family life. While formulating standards and procedures, this Court referenced various relevant laws and policies including Articles 15(3), 24, and 39 of the Indian Constitution regarding child welfare, and the principles embodied in the U.N. Declaration on the Rights of the Child (1959). The delineated safeguards include, amongst several others, the requirement that foreigners wishing to adopt be sponsored by relevant licensed agencies in their own country, that no adoption application from a foreigner should be entertained directly by any adoption agency in India, that agencies working on inter-country adoptions and licensed by the Government of India must meet certain stipulated criteria and undertake specific responsibilities in ensuring the safety and

wellbeing of adopted children, and that all inter-country adoption proceedings must be approved by the local courts.

24. Over the years, human trafficking has manifested into various forms of exploitation and child trafficking has increased. It has been documented that children are being trafficked for:

i) Sexual exploitation;
ii) Forced labour;
iii) Begging and petty crimes;
iv) Armed conflict;
v) Child marriage;
vi) Illegal adoption.

25. Each of the above has further manifestations within itself. Trafficking for forced criminality is raising at alarming levels since traffickers have realised the protections offered to children in the juvenile justice system in many jurisdictions. A protection mechanism for children is exploited as a safe haven for committing heinous crimes.

26. Following the judgment in ***Lakshmi Kant Pandey*** (supra) in the year 1990, the Central Adoption Resource Authority (**CARA**) was set up by the Government of India to regulate, monitor and promote adoption of orphaned, abandoned or surrendered children. Initially, CARA was registered as a Society under the Societies Registration Act, 1860. Over the years, CARA processes were made an intrinsic part of the Juvenile Justice system. Through Section 68 of the Juvenile Justice (Care and Protection of

Children) Act, 2015 (for short, the "**JJ Act, 2015**"), CARA attained the status of a statutory body with the mandate to promote and regulate adoptions, facilitate interstate adoptions, frame regulations on adoption related matters and regulate inter-country adoptions.

27. The JJ Act, 2015 is a secular Act which specifies in Section 58(1) that any person irrespective of religion can adopt a child. Section 56(3) of the Act states that nothing in this Act shall apply to adoptions under the Hindu Adoption and Maintenance Act (**HAMA**). As per Section 56(4) of the JJ Act, 2015, all intercountry adoptions are done as per the provisions of the Act and the Adoption Regulations framed by CARA. The categories of children available for adoption are seen from a reading of Section 38 of the JJ Act, 2015 as per which orphaned, abandoned and surrendered children who are declared legally free for adoption by the Child Welfare Committee can be placed for in-country and inter-country adoption. The eligibility criteria for prospective adoptive parents is prescribed under Section 57 and the procedure for adoption by Indian prospective adoptive parents living in India is given in Section 58 of the JJ, Act 2015 respectively. Under Section 61 of the JJ Act, 2015 before issuing an adoption order, the Court is required to satisfy itself that there is no payment or agreement to pay or reward any consideration from the prospective adoptive parents to the Specialised

Adoption Agency, except towards the permitted adoption fees or service charge or childcare corpus.

28. Due to the checks and balances provided in the statute and CARA regulations, adoption becomes a long-drawn process and there is a huge waiting list for parents to adopt children. There are not enough children who are declared "legally free for adoption" under the law. This seems to have led to a demand for children and traffickers taking advantage of this demand.

29. ***Lakshmikant Pandey*** (supra) primarily dealt with cases where the biological parents were coerced in diverse ways to part with their children and then those children were given in adoption to prospective parents outside India. In the present set of cases, a cognizable offence is made out at the outset with the kidnapping of children, multiple transactions of the sale of children ultimately handing over custody illegally.

iii. <u>Missing Children and Trafficking</u>.

30. In ***Bachpan Bachao Andolan v. Union of India & Ors.***, reported **(2014) 16 SCC 616**, this Court dealt with issues regarding the manner in which a complaint about a missing child was being handled by the local police station. The Court heard the National Human Rights Commission and the National Legal Services Authority and issued directions with a view to

ensuring that cases of missing children are presumed to be taken as cases of abduction or trafficking unless the investigation shows otherwise. Some of the key directions issued by this Court which are relevant for the present case are:

> "*1. ...in case of complaint with regard to any missing children made in a police station, the same should be reduced into a First Information Report and appropriate steps should be taken to see that follow-up investigation is taken up immediately thereafter.*
>
> *2. ... in case of every missing child reported; there will be an initial presumption of either abduction or trafficking, unless, in the investigation, the same is proved otherwise. ...*
>
> *... whenever any complaint is filed before the police authorities regarding a missing child, the same must be entertained under Section 154 Cr.P.C. However, even in respect of complaints made otherwise with regard to a child, which may come within the scope of Section 155 Cr.P.C., upon making an entry in the Book to be maintained for the purposes of Section 155 Cr.P.C., and after referring the information to the Magistrate concerned, continue with the inquiry into the complaint. [...]"*

31. Sometime in 2023, the National Human Rights Commission (NHRC) entrusted the study on Human Trafficking to the Bharatiya Institute of Research and Development (BIRD), New Delhi. The report filed by BIRD dated 12.04.2023 has recorded the following major findings of the study:

> "***Preventive Measures, Profile of Victims & Their Exploitation***
> *1. NCRB Data shows that during 2019, about 3.80 Lakh persons were traced missing and out of them, about 2/3rd were females. Out of total missing persons, a significant number of persons could not be traced out and remained missing. This shows that a large proportion of missing persons particularly women were forced into sexual exploitation trade. The Supreme Court while hearing a case in 2013 directed police that cases of missing*

children should be treated as abduction or trafficking until proven otherwise, it is yet to become a reality.

2. Most of the trafficked respondents (80.7%) were from economically weaker sections i.e., BPL families (50.3%), AAY-Antyodaya Anna Yojana (30.4%) (Poorest of Poor) hailing from Rural & Semi-urban areas.

3. Friends/lovers/brokers/middlemen, strangers and migrant workers recruiters / placement agents were the main persons who initiated victims in trafficking; about 12% victims admitted that their family members are already trafficked.

4. About 11% victim respondents were found minor at the time of trafficking and thus, they were accompanied by family members during the course of trafficking. As per NCRB Data for 2019 this comes to 44.04% (2914 victims were minor out of total 6616 trafficked victims). Promise for paid work, to pay back or support parents were the main reasons for trafficking in case of minor at the time of trafficking.

5. Sexual exploitation, violence, beating, over work and deprivation of sleep and food were some of the types of physical and sexual abuse/violence experience by trafficking victims and sex workers. About 58% victims also experience injuries during their trafficking.

6. Victim re-trafficking is a common occurrence, especially in socially and economically disadvantaged areas. As per Report of International Organisation for Migration (IOM), one study found rates of re-trafficking in India to be 25.8 per cent among women trafficked for sexual exploitation; of this figure, 8.4 per cent had been trafficked on three or more occasions.

7. There is an increase in the recruitment of vulnerable people for online sexual exploitation by traffickers, as well as a growing market for child sexual abuse material and technology facilitated child sex trafficking.

8. Many trafficked people (8%) are still unable to access governmental help due to administrative hurdles especially victims hailing from Bangladesh, Nepal & Myanmar. One of the most difficult parts is determining legal status/Identity.

Trafficked people are frequently refused state services (e.g., medical, employment, social assistance, kindergarten, etc.) as well as other advantages to which they should be entitled and which are critical in the reintegration process.

9. A negligible proportion (10.8%) of Law Enforcement Agency respondents & 7.6% Programme Administrators admitted that there has been some kind of vulnerabilities survey in their States, it was reported from Tamil Nadu followed by Assam and Karnataka.

10. It is reported that Domestic Work is offered to the majority of trafficked victims or migrant workers, particularly females, by traffickers/placement agencies/migrant worker recruiters, etc.

11. Domestic workers, caretakers, and those employed in the sex and entertainment industries are largely unprotected by labour laws. Female migrants may be coerced into prostitution or the sale of sexual favours in order to survive or provide for their family, especially if they are forced to migrate or are displaced. Sexual exploitation is a threat to migrant women.

12. The types of physical and psychological abuse human trafficking victims experience have led to serious mental or emotional health consequences, including feelings of severe guilt, posttraumatic stress disorder, depression, anxiety, substance abuse (alcohol or narcotics), and eating disorders. Victims of trafficking were in need of psychological care as part of comprehensive medical treatment. Stress, depression, sleeplessness, desperation, negative thinking, sort temper and violence and lack of obedience were some of the psychological impacts of human trafficking.

13. Violent exploitation has resulted in survivors developing a mistrust of care-giving individuals and systems, which has severely hindered the service delivery.

14. Prolonged physical and mental abuse has affected victim's behaviour in negative ways, having an impact on both physical and emotional responses. Because trafficked persons experienced extreme forms of trauma over long periods of time, their capacities both to understand what has happened to them and to describe their experiences are directly impaired as a result

of such abuse. Victims found that it is difficult to make personal sense of the abuse they have experienced, much less tried to explain it to the authorities of shelter home or counsellors.

15. Social withdrawal, poor communication skills, inability to express feelings, difficulty with adjustment, lack of motivation and aggression, sexual activeness, nightmares, inability to make friendship and frightened of adults and strangers were some of the behavioural impacts reported by victims of human trafficking.

16. The level of awareness about schemes and programmes among the trafficked victim respondents was reported very low as negligible proportion of respondents were found aware about a few schemes such as Beti Bachao, Beti Padao, Swadhar Greh, Ujjawala, child line and children's homes. A negligible proportion of respondents further reported that they get benefits under Ujjawala, Swadhar, compensation for sexual exploitation and children homes scheme.

17. Only 3.6% victim respondents were aware about Compensation Scheme for Women Victims/Survivor of Sexual Assault/other crime-2018 and only 2.6% respondents got benefitted from the Scheme. The Victim Compensation Scheme established under 357- A Cr.P.C. by National Legal Services Authorities are not reaching the trafficked victims. In the last seven years, between 2012 and 2019, across India, not even 100 victims of human trafficking have been awarded compensation. Out of total 100 applications, only 30 survivors received compensation amount. In 19 States, out of the total fund allocation of Rs 544.53 crore for victim compensation, only 128.27 crore has been utilized and 75 per cent of the funds remain unutilized.

18. About 1/3rd victim respondents reported that their family is unwilling to accept them back. However, about 2/3rd victims were willing to join mains steam after exit of the trafficking. Slightly less than 1/3rd victims further reported that they try to escape from destination of trafficking.

19. Less than 1/3rd sex workers reported that their families are willing to accept them back in their families. Similarly, majority of rescued victims were found willing to join mainstream as against 1/3rd of sex workers who were willing to join mainstream

at the exit of trafficking. More than 2/5th rescued victims attempted to escape from destination of trafficking as against 6% of sex workers who try to escape from the trafficking.

20. There are still a lot of social customs/practices that inducts young girls into prostitution.

21. Majority of the sex workers were from the age group of 16 years and above at the time of entry in sex profession. However, more than 1/4th respondents were less than 16 years of age.

22. There is no sound programme and scheme to prevent second generation of prostitutions.

23. Psychological manipulation, threat of physical violence and pleasure are some of the main habituation factors in sex profession.

24. About 60% sex workers are willing to exit from the profession. Most of the respondents reported that they do not want that their children follow their mother's profession. However, majority of them require the support such as livelihood and accommodation, alternative livelihood and safe and secure place to live in order to exit from the current profession.

25. A new form of organized Prostitution has emerged in recent years. Gangs involved in organized prostitution are luring customers through internet, text messages and mobile based applications, taking advantage of a loophole in the law which is silent on regulating the proliferation, promotion and advertisement of prostitution on digital platforms and even though leaflets /pamphlets. In the name of Cross Gender Massage Services, Organized Sexual Services are being provided at Night Clubs, Massage Parlours, Spas, Luxury Hotels & Resorts, Motels, Dance Bars, Private Residences, huts and even vehicles etc.

26. Poverty and illiteracy have been identified as two primary causes of trafficking and primary data simply supports this theory as most of the parents of trafficked victims are illiterate and were living in object poverty.

27. About 60% parents of victim respondents said that family members are the facilitators followed by friends/relatives (11.8%), contractors/agents (5.9%) and placement agencies (2.9%). Surprisingly 23.5% respondents reported that their children run away from home.

28. Most of the (about 37%) parents reported that their children were working as forced labour-domestic works.

29. About 31% parents reported that their children were working in hazardous industries, metallurgical industries, coal, fertilizers, mining, chemical & petrochemicals, cement and firecracker workshops. As per census of 2011, this figure is 20.7%.

30. There is a lack of National Level Campaign against Human Trafficking and Media is silent.

31. About 2/5th Law Enforcement Agency respondents reported that the problem of human trafficking is serious and this has been taken as priority in their agency. Even less than 1/3rd respondents viewed that human trafficking is very serious problem. It was found more pronouncing in Tamil Nadu followed by Karnataka and West Bengal.

32. A negligible proportion of Law Enforcement Agency respondents (7.5%) admitted that placement agencies that facilitate migration are registered with law enforcement agency. It was found more pronouncing in Tamil Nadu followed by Karnataka and Maharashtra. Thus, most of the respondents revealed that placement agencies are not registered with them. Thus, there is possibility of exploitation of girls during their migration.

33. The main reasons for non-stoppable trafficking as per law enforcement agencies were recorded mainly poor economic conditions, social customs, gender inequality, negligible penalties, domestic violence and poor law enforcement. However, prosecuting officers reported that poor economic conditions, poor law enforcement, negligible penalties, corruption, social customs, gender inequalities and inadequate laws are important reasons responsible for human trafficking.

34. Majority of stakeholders during FGDs informed that it is necessary to identify appropriate points of intervention so that migrants and future migrants are warned about the dangers and repercussions of human trafficking and get information that allows them to seek help if necessary.

35. Poverty, lack of means of livelihood, many girl children, lack of education, child marriages, and domestic violence are some of the major trafficking vulnerabilities. However, trafficking vulnerabilities vary across the stakeholders such as victims, law enforcement agencies and traffickers.

36. Poverty along with gender discrimination, domestic abuse/ violence, organized crime/ poor law enforcement, social inequities and cultural practices are some of the supply side factors of human trafficking and Cheap labour force, cheap domestic servants / maids, demand for women's sexual services and derived demand-profit and revenue generated by third parties including recruiters are some of the demand side factors responsible for human trafficking identified in this research.

37. Abuse of vulnerability/promise and offering money / jobs, allurement/ be funding / enticing with attractive offers, deception, fraud making, false promises of marriage, physical force / use of force and threats were some of the modus operandi of traffickers.

38. A negligible proportion of victims (5.3%), traffickers (0.0%), parents (0.7%) and client's (4.8%) respondent were found aware of National Human Rights Commission. The awareness level was found slightly significant among women and children victims followed by clients. The main sources of information about NHRC were reported to be NGOs followed by print media and electronic media.

39. About 56% of respondents, who were aware about NHRC, were partially aware of role and functions of NHRC. It was found more pronouncing among the parents followed by women and child victims, law enforcement agencies and clients. Slightly more than 1/3rd respondents were found fully aware of role and functions of NHRC. It was found more pronouncing among the public prosecutors followed by programme administrators.

About 1/3rd clients and more than 1/4th service providers were not aware at all about the roles and functions of NHRC.

40. Insufficient and inadequate laws, poor enforcement, ineffective penalties, minimal chances of prosecution, the relatively low risks involved, corruption and complacency, poor visibility and less debate on the issue, the lack of political will of the governments to implement policies and to provide adequate services for victims- all has played important role in perpetuating trafficking.

41. It has been also expressed by all stakeholders that people who takes up the cudgels against trafficking are in miniscule. It becomes difficult to combat because everyone (trafficking camp) is unified. The profiting families are also reluctant to talk."

32. The report thereafter talks about law enforcement, traffickers and exploiters. The same reads thus:

"Law Enforcement, Traffickers & Exploiters

1. AHTUs in India are special police units, devoted to tackle human trafficking. Following MHA advisory (July 2020), a recent report of 16 states and UTs suggest that 225 AHTUs existed only on paper, and only 27 percent of the AHTUs were operational. Most of the AHTUs are designated AHTUs burdened with a lot of other law enforcement activities. The Anti Human Trafficking Units (AHTUs) are not fully operative & Dedicated to Human Trafficking and in many districts of India, AHTUs have not been established so far.

2. Anti-Human Trafficking units (AHTUs) are currently under-resourced as well as undertrained. AHTUs are not fully aware about various legislations and sections dealing with human Trafficking.

3. According to the Protocol, rescue teams should include: an official from the Department of Labour, representatives of the CWCs, a local non-profit, a doctor, and a female police officer or volunteer. These individuals must receive training on relevant laws, their individual responsibilities, and trauma prevention

strategies. However, research participants reported that, in reality, teams are often too small to cope with the numbers of children needing rescue. Police officers, doctors, and female witnesses only sporadically take part. Key informant data suggests this overreliance leads to ad hoc and under-resourced raids directed by inexperienced or poorly supported workers, a situation that can and does inflict additional trauma on vulnerable children.

4. The Rescue Protocol states that details of the rescue and the identities of rescued children must remain strictly confidential, and should not be disclosed to outside parties, including the media. Yet privacy breaches concerning occurrences and information leaks before, during and after raids are frequent.

5. Service Provider Respondents stated that employers are often alerted to impending raids, and that unsuccessful rescue operations can increase the risk of employers retaliating against children.

6. Most of the Government official stated that rescue team members directly solicit media involvement so 'the public could understand that this type of activity is a crime and punishable offence'. Publicity generates risks of retaliation against rescued children, increased social stigma and difficulty in reintegration. Moreover, widespread sensationalized media coverage of raids plays an important role in simplifying the complex underlying social and economic problems that perpetuate this problem.

7. Key informant interviews held with police officers, Government Railway Police (GRP) and Railway Protection Force (RPF) and other stakeholders-Child Welfare Committee members, NGO representatives, and vendors in railway stations, reveals that most cases of trafficking are not registered or reported which is the major reason for the declining trend in reported cases of trafficking. It is reported that Memo/GD entry is made by GRB/RPF and children are handed over to Child Welfare Committee in most cases. Some of them are left without any enquiry/record.

8. The terms "human trafficking" and "migration" are being used interchangeably, resulting in the denial of labour rights. It's

crucial to understand the difference between "trafficking," "sex work," and "migration."

9. Human Trafficking incidents are underreported as a result, the complainant is compelled to file a complaint through court order, while the offending police officers walk free. There are cases of refusal by police to file a complaint on the basis of jurisdiction/area, despite the fact that any police station can file a complaint and the investigation can be moved to the appropriate police station.

10. There are several reasons for non-registration of cases. It varies from case to case. The police officials are not much aware of IPC section 370. It is clearly provided in explanation-2 of the Act that the consent of the victim is immaterial in determination of the offence of trafficking, most of the police officers don't accept it. In the case of Bhagubhai Patel v State of Gujarat, the High Court held that a customer at a brothel comes within the purview of sec 370 of the IPC because trafficking also includes prostitution, the reason being that it is one type of exploitation.

11. The police are burdened with so many responsibilities as there are vacancies in police stations. Hence, they are reluctant as they cannot investigate the entire chain which crosses over three to four states. No coordination mechanism is available between source and destination states. Even if victims are rescued and sent back to their home, there is no rehabilitation package under IPC which would result in leaving the victims unprotected. There will be also problem in filing charge sheet, trail and other proceedings for which the victims will not either coordinate or turn hostile. Corruption, pressure from superiors/politicians and lack of review mechanism force the officers in non-reporting of incidents. Moreover, the child protection mechanisms are very weak and they are not properly enquiring the victims and following the procedures. They don't have any power or authority to influence the police officers.

12. The major challenges being faced by agency in encountering with investigation of cases frequently reported of lack of victim cooperation/victim distressed, community ignorance and lack of identity as Victims do not identify themselves as a Victim. However, other important challenges were reported to be language /cultural barriers, lack of adequate resources, victims

do not identify themselves as victims, lack of support with victim support providers, lack of adequate training and knowledge as well as lack of procedures and clear jurisdiction.

13. NGOs and Service Providers reported that most of the AHTU or police relied on NGOs to report victims to the police for action. In some cases, poor inter-state coordination impeded victims' ability to obtain services and participate in civil and criminal cases upon return to their home states. The Odisha Labour Department took steps to improve interstate coordination on labour trafficking cases by establishing help desks, located in the capital cities of Telangana and Andhra Pradesh, as well as in Delhi, to identify trafficking victims from Odisha.

14. International Justice Mission (IJM) and other NGOs reported that some officials in Uttar Pradesh, Tamil Nadu, Telangana and Karnataka treated bonded labour cases as labour exploitation, which meant victims were not identified as bonded labour victims, did not receive "release certificates," and were not eligible for government compensation or services. In the Bonded Labour Abolition Act, the definition of accused restricted to the principal employer and leaves traffickers out of the ambit of prosecution.

15. Labour department officials do not register FIR in most of the cases as mandated under law as there is confusion & disagreement about who has this responsibility. The resulting consensus is that employers are 'rarely' or 'never' arrested & unlikely to be convicted. Official figures for 2015 show that nationwide only 55 cases of child trafficking for any purpose 1.09% resulted in convictions out of 5,026 under investigation.

16. Most of the traffickers during interaction told that they are also involved in drug peddling but they were always arrested on grounds of human trafficking rather than for drug peddling as they get bail easily in trafficking cases. Justice S K Panigrahi of Odisha High Court. Justice Panigrahi has heavily commented on this issue as reported in TOI: 02.07.2020. Drug trafficking is linked to many forms of trafficking including diverse forms of labour trafficking in agriculture, begging and diverse forms of hard physical labour.

17. Associations with traffickers with Pan India Network of Traffickers & smugglers is the basic reason for about half of the respondents for getting involved in flesh trade, whereas more than one third (37%) respondents have reported that earlier they were Sex Workers/Broker/Pimps, about 8% have reported that earlier they were brothel owners. 2% respondents were practicing their inherited business.

18. Most of the traffickers (79.6%) reported that they traffic the victims on promise of money/ jobs and they directly contact to the family/victims through their placement agencies. Placement agencies are playing a major role in trafficking minor girls as well as children for the purpose of labour, sex slavery and forced marriages.

19. The traffickers have changed their modus operandi with the changes in law and society. In most of the cases the trafficker is known to the victim who convinces the victim and her/his family and further sell them over to placement agent.

20. For objecting the work given by placement agencies, the victims are tortured, thrashed and beaten up badly, many times these victim girls report sexual violence and assault by the placement agents and even by their employers. The girls are kept confined in the placement agencies till the time they are sold further. These placement agencies keep on changing their addresses, name and contact details to escape from law.

21. Most of the Traffickers (98%) reported that Relatives /family members, neighbour / friends and other middle men are playing critical role in making women and children more vulnerable to join trafficking.

22. Big profit and lack of alternative livelihood for trafficker are the main reasons for continuity act of human trafficking.

23. Witness turning hostile, protection of victims and witness, court adjournment and victims pleading guilty were some of the major difficulties being faced by Law Enforcement Agencies in working with cases of human trafficking.

24. The phenomenon of flying sex workers is increasing day by day and has been attributed the reason behind flourishing of brothels.

25. More than 2/5th brothel keepers reported that police raids thrice and above in a month in the brothels. The main reasons for police raids were reported to be checking of minor girls, law and order problems and for official figures. More than 1/4th brothel keepers reported that Police Raids the brothel when monthly quota is not given to them. About 1/4th respondents reported that they are often involved in contact with police. About 30% respondents reported that police are also involved in racket of trafficking.

26. Only 7.9% clients reported that they were ever harassed by Police and those who were harassed 4.8% clients reported that they were harassed occasionally whereas 3.2% reported that were rarely harassed. Clients those who were harassed by Police were asked what was the action taken by Police when encountered. 6.3% Clients reported that Police extracted money from them and 1.6% reported that they were verbally abused.

27. Easy bail for traffickers, intimidation and humiliation of victims, and baseless segregation of survivors/accused following rescue operation from brothels during complaint filing are the major gaps in the enforcement mechanism to combat human trafficking.

28. Most of the Law Enforcement Agency respondents admitted that the officials of their units/department have received training on the issues of human trafficking. However, a large proportion of respondents in Karnataka, Uttar Pradesh and Tamil Nadu revealed that officers have not received such training.

29. Most (84.4%) of the Law Enforcement Agency respondents reported that less than half of the officers in their departments have received training on the issues of human trafficking. In-service, induction, orientation and refresher training were organized on the issues of human trafficking.

30. Most of the Law Enforcement Agency respondents (91.4%) revealed that they learn the subject of human trafficking as regular law enforcement activities while about half of the

respondents admitted that they learn such knowledge from training, conference and workshops. Thus, about 2/3rd respondents revealed that their knowledge about legislations on human trafficking is at average level.

31. Majority of the Law Enforcement Agency respondents (64.5%) reported that section-7 and 8 are most commonly used sections of ITPA. However, about 58.1% respondents revealed that section-3 and 4 are most commonly used sections of ITPA.

32. There is a lack of integrated information system about the trafficked person and the traffickers/brothel owners/operators.

33. Police involvement in perpetuating the practice of trafficking is reported by traffickers, NGOs as well as brothel keepers. Raid and rescue efforts have often resulted in police harassment, detention and abuse of women and minor girls as reported by victims rescued from the brothels of Pune and Mumbai. Although rescue efforts provide an important means of escape for women and minor girls in CS and a pathway to support services, when implemented poorly without sufficient police training and adequate insight about the commercial sex network, it has become traumatising for women and minor girls.

34. It is reported that Law enforcement authorities, for example, the police force themselves, have a limited understanding of the prevalence of trafficking of women and minor girls for CSE and tend to be uninformed about their responsibilities under the ITPA towards trafficking. This constitutes yet another challenge in the prevention of trafficking of women and minor girls.

35. The clause u/s 18 ITPA, which allows for the closure of brothels and the eviction of offenders, has been applied sparingly. We have discovered a slew of brothels operating beneath the radar of local cops in Delhi, Mumbai, Pune, Nasik, Kolkata, and others.

33. The report has also talked about prosecution of offenders:

"1. Conviction rate in crimes against women and children for the past three years has been low. The conviction rate in cases of crimes like rape, cruelty by husband or his relatives, violation of

Protection of Women from Domestic Violence Act, human trafficking, violation of Cyber Crimes/Information Technology Act and Protection of Children from Sexual offenses Act, have been amongst the lowest. It has been informed by the State Government of Uttar Pradesh that they are conducting prosecution drives to improve the conviction rate in crimes against women and children.

2. According to NCRB data, conviction rate under human trafficking was recorded 42.4 per cent in 2017 which declined to 31.9 per cent in 2018 and further reduced to 20 per cent in 2019. BIRD's Primary Data indicates that 20.8% prosecuted persons were convicted. The main reasons for low conviction rate as per public prosecutors were recorded witnessed turning hostile (44.8%), poor evidence (20.7%), lengthy court procedure (13.8%), inappropriate charge sheet (10.3%) and easy bail to traffickers (10.3%). However, reasons for low conviction rate vary across the selected states.

3. Material evidence, medical examination of victims, suspects and documents and witness evidence are some of the major techniques being used in investigation of crimes related to trafficking. However, techniques of investigation of crimes vary across the states. The State Law Enforcement Agencies Reported that forensics plays a critical role in the successful investigation, prosecution and conviction.

4. NGOs have reported that police rarely make the informant NGO witness of the recovery memo or charge sheet, therefore most traffickers and brothel owners are able to evade legal capture.

5. Most of the rescued victims (56%) have reported that the statement of the complainant/ victims is changed or ignored during the investigation, and it is not video-graphed as required by law. Even it is videotaped, they are not sent to the court with the charge sheet.

6. Inappropriate charge sheet, witness turn hostile, poor evidences and lack of victim or witness protection are some of the loopholes in law enforcement mechanism for low-rate of prosecution.

7. Service Providers, NGOs, Parents, Programme Administrators and Public Prosecutors have reported that at different levels of government, a lack of comprehensive responsibility for wrongdoing and corruption persisted, contributing to widespread impunity.

8. During FGDs with the Service Providers, NGOs, Parents, Programme Administrators and Public Prosecutors it was deliberated that the survivors/families are forced to become hostile and refuse to testify in the trial court due to social pressure, threats, intimidation, bribes, police collaboration, protracted trials, cross-cases, and a lack of faith in the criminal justice system, among other things.

9. About 1/4th Public Prosecuting Officers reported that present laws are able to address the issues of human trafficking adequately. It has been noted that law enforcement officials do not take any action against accused persons who provide falsified documents in order to obtain bail. Protection of victims and wetness, adequate rehabilitation facilities for victim, victim's access to legal aid, long term crime control policy and victim's rights are some of the ignored areas in existing laws.

10. Most of the Public Prosecuting Officers (79.3%) admitted that existing laws permit them to use of specialized evidence-gathering techniques in course. It was found more pronouncing in Jharkhand, Karnataka, West Bengal, Maharashtra, Assam and Uttar Pradesh. Witness turning hostile, protection of victim and witness and victim pleading guilty are some of the major difficulties being faced in working with cases of human trafficking.

11. It has been noted that law enforcement officials do not take any action against accused persons who provide falsified documents in order to obtain bail.

12. Majority of the Public Prosecuting Officers (69.6%) reported that less than 25% officers have received training on the issues of human trafficking. Trainings were mainly organized by department of justice, service providers and independent trainers. About 79% respondents reported that officers have received training on the issues of human trafficking. It was found more pronouncing in Karnataka followed by West Bengal, Uttar

Pradesh and Jharkhand. However, about half of the respondents in Tamil Nadu and 1/3rd respondents in Assam ad Maharashtra revealed that officers have not received such training.

13. Approximate only half of the Prosecuting Officers has received Training on the issues of Trafficking & prosecution of offenders and those who received the training majority of the respondents (82.6%) revealed that training on the issues of human trafficking has not been effective.
14. There are major coordination gaps/lacks among NGOs inside states, across states, and across borders, as well as other stakeholders."

34. On the subject of effective law enforcement and prosecution, the report states thus:

"1. Law enforcement officials should treat cases of missing children as abduction or trafficking until proven otherwise as per Direction of The Supreme Court in 2013 and search for these people in every possible location. When children disappear, Law EAs should start the missing person's process, look into what happened, disseminate information, and conduct investigations, collaborating with other agencies as needed.

2. About 31 percent Parent respondents reported that their children were working in hazardous industries- metallurgical industries, coal, fertilizers, mining, chemical & petrochemicals, cement and firecracker workshops. We recommend that provisions of The Juvenile Justice (Care and Protection) of Children Act, 2000: and The Child Labour (Prohibition and Regulation) Act, 1986: should be implemented in letter and sprits. Violators should be punished. Regular check of hazardous industries/units must be carried out by the Labour Inspectors.

3. The idea of community policing needs to be made more widely known in order for people and non-governmental organisations to get involved in policing to stop and combat the trafficking of women and children.

4. Anti-Human Trafficking units (AHTUs) are currently under-resourced as well as undertrained. There is an urgent need for additional Capacity Building of AHTUs and Providing them

adequate funds and infrastructure because "the police lack the means to undertake a thorough investigation if the person is trafficked from another state."

5. To address the issue and protect the rights of victims and survivors, comprehensive legislation is required due to the underreporting of human trafficking instances and gaps in other laws. For law enforcement organisations, there is a need for an extensive training and capacity-building programme on the topic of human trafficking. It should be made mandatory for AHTU or the Police to report every case of human trafficking.

6. We advise the police to use the following strategies to win the trust of victims: Assuring victims that they are not the subject of an inquiry Victims deserve to be treated with respect and decency. Employ a translator if the victims speak different languages, ensuring that the victim's identity and privacy are protected by taking all necessary precautions; Keep the accused far enough away from the victims to be safe. Check to see if Section 228 A of the IPC and Section 21 of the JJ Act are being followed; Inform the victims of the investigation's development; Keep in mind that the victim takes all of their belongings with them. Do not take offence if traumatised victims behave inappropriately or refuse to interact. Avoid, among other things, using derogatory language or making humiliating gestures or body language. Police officers may be able to overcome these challenges using their knowledge, skilful communication abilities, and information because it is also a question of counselling and persuasion.

7. According to public prosecutors, the primary causes for the low conviction rate include witnesses becoming hostile, inadequate evidence, a long court process, an improper charge sheet, and easy bail for traffickers. The problem of insufficient evidence and improper charge sheet could be addressed by conducting thorough investigations into human trafficking instances. Because most witnesses and victims become hostile during prosecution, more emphasis should be placed on gathering Material Evidence, Medical Examination of Victims, Suspects, Digital Videography of Investigations & Statements of Victims and Documents Supplemented by Forensic Evidences for filling a charge sheet instead of a statement under section 161 of

the Cr.P.C., as this will almost certainly increase the chances of offenders being convicted.

8. A qualified and experienced investigative agency, such as the National Investigation Agency (NIA), which has been mandated to look into interstate and international trafficking crimes, is urgently required for the proper investigation of human trafficking cases. We support the full capacity building of law enforcement and prosecuting organisations, including providing them with state-of-the-art methods and tools for obtaining information and forensic evidence, as well as witness and victim protection, which may lead to a more severe conviction.

9. Recruitment agencies, document forgers, brokers, brothel owners, debt collectors, managers and owners of employment agencies, corrupt immigration officials, consular staff, embassy staff, law enforcement officers, border guards who accept bribes in exchange for passports, visas, and safe transit, and all others who are involved by their acts of omission and commission that result in exploitation should be dealt harshly under law.

10. In order to safeguard some victims of human trafficking, prosecutors should set up child-friendly courts, as is done in Telangana and West Bengal. Most of the time, courts should employ video conferencing to hear testimony from victims who have been reintegrated or repatriated. Since it is essential for convicting traffickers and criminals, victim and witness protection should be carefully considered. Because of poor witness protection and the drawn-out legal process, many victims were reluctant to take part in trials against their traffickers. As a result, it should be ensured that cases are routinely reviewed by superior authorities.

11. To combat human trafficking, all states and territories should establish an Anti-Human Trafficking Bureau at the state capital level, as well as independent, non-designated Anti- Human Trafficking Units (AHTUs) at every district level, and use of Women Help Desks to monitor investigations at every police station by a Senior Officer at State Level. Dedicated AHTUs are urgently needed because some AHTUs lacked defined mandates, were not completely focused on human trafficking, and often received requests for assistance months later, limiting the effectiveness of investigations. In a few cases, police allegedly

freed alleged sex traffickers on bond right away, allowing them to focus on other crimes. Trafficking investigations are lengthy and complex, and we believe that having full-time resources devoted to these investigations are essential for success. These officials also underscore the need to provide and use undercover assets and to establish and nurture informants and witnesses.

12. Ministry of Home Affairs should collaborate with the Ministry of Railways. The Railway Board should be asked to enlist the help of the Railway Protection Force (RPF) and the Government Railway Police (GRP) to combat human trafficking at railway stations. They should instruct GRP and RPF officials to remain watchful and alert when dealing with such instances and mandatorily report each and every case of Human trafficking.

13. Brothels ought to be shut down right away. A thorough action plan needs to be created for this project. Prostitutes and commercial sex workers need to be rehabilitated into other fields in order to improve their livelihoods. The relationship between police and owners of brothels makes things worse. This nexus has to be broken up as soon as feasible.

14. It is advised that rescue teams strictly follow rescue protocols and include a representative from the Department of Labor, representatives from the CWCs, a local non-profit, a doctor, and a female police officer or volunteer. Almost every stakeholder reported that police do not follow standard rescue protocol.

15. Enforcing the law in relation to applicable Acts like CLPRA, BLSA, IPTA, JJA, and IPC involves not only police but also many other authorities involved in the Criminal Justice System, such as executive magistrates, labour officials, CWC members, and in-charges of Homes. In order to strengthen the state's investigation and prosecution apparatus in this area, the State government should create a time-bound action plan.

16. The development of all stakeholders' capacities and a regular programme of gender sensitization are absolutely necessary.

17. A First Information Report should be filed in every instance of child labour, the case should be thoroughly investigated, and the offenders should be punished. As a result, there is an urgent

need to train and sensitise labour department workers on the aforementioned issue.

18. The lack of an interpreter who is fluent in the relevant local languages makes it difficult to care for children who have been trafficked from different states. As a result, professional interpreters are required in such situations. At the district level, a database of competent language interpreters should be kept and shared with law enforcement agencies, service providers, and the courts.

19. CWCs must be established in each district as soon as possible, according to available guidelines, and multiple appointment practices should be strictly prohibited to eliminate potential conflicts of interest. CWCs should include those who work in the fields of law, medicine, and psychology.

20. It is found that almost all CWCs are working in inadequate sittings, some of which are seriously inadequate. To deal with this, three different sorts of sitting venue styles are utilised by several CWCs across the nation. There are further unique sittings available, including rotating and parallel sittings. Each, however, offers a unique set of benefits and drawbacks. A mixed sitting configuration of CWC is advised as needed.

21. The Act and the Rules do not currently provide any procedures for case management during hearings. While some CWCs successfully handle proceedings and financial flow, others seem to be struggling and using ineffective/inappropriate approaches. The necessary authorities must create a flawless attendance system, such as Aadhar Enabled Biometric Attendance, to prevent prolonged absenteeism from CWC meetings because it interferes with the evaluation of children's rights.

22. Strong action against human traffickers should be taken, including criminal penalties and the freezing of their bank accounts. The unlawful assets amassed by traffickers and other parties as a result of exploiting trafficked victims should be seized and forfeited.

Human trafficking, particularly of minors, is a kind of modern-day slavery that necessitates a holistic, multi-sectoral strategy to

address the problem's complicated dimensions. Law cannot be the exclusive device for dealing with challenging social and economic issues. Given the infancy of services to trafficked people, monitoring and evaluation studies should be a part of any assistance programme, both governmental and private. Anti-trafficking legislation must be enforced properly, which necessitates educating individuals about the laws in place so that these rights are respected and upheld in practice. There are provisions for victim confidentiality, in camera trial (Section 327 CrPC), and compensation (Section 357 CrPC) in the existing laws. These provisions should be applied in relevant circumstances to protect victims' rights. In dealing with instances, the National Human Rights Commission has a larger role to play, and it must make recommendations and adopt remedial actions."

C. ROLE OF EACH OF THE ACCUSED PERSONS

35. We shall now give a fair idea as regards the role of each of the accused persons and other details as to how they came to be released on bail by the High Court. The details of the accused persons are as follows: -

S. NO.	PARTICULARS
1.	**Item No. 12**
	SLP (Crl.) D-No. 50420/2024: 230-days delay in filing **Accused:** Santosh Sao **Role of Accused:** Santosh Sao is a resident of Jharkhand who was involved in the illegal purchase of a kidnapped minor boy-child named Sunny Nishad, who is a victim in connected case bearing FIR No. 76/2023 registered in P.S. Daraganj, Prayagraj, U.P. He bought theboy-child from co-accused Jagveer Baranwal and Anuradha Devi for Rs. 4 Lakhs. During Police investigation, the boy-child was found in his possession. **FIR Registered:** FIR No. 193/2023, P.S Bhelupur, Varanasi; FIR No. 201/2023, P.S Cantt, Varanasi and FIR No. 76/2023, P.S Daraganj, Prayagraj. **Consideration by High Court while granting Bail:** ▪ He has not been named in the FIR. Name was disclosed by co-accused Anuradha Devi in police custody. ▪ Victim Recovered from co-accused Nandlal Ram.

	▪ Similarly situated co-accused in terms of role; Gudiya Devi has been granted bail. ▪ He has been in custody for 6-months. **Conditions of Bail granted by High Court:** ▪ Appear on the date fixed by the trial court; ▪ Not tamper with the prosecution evidence; and, ▪ Not pressurize the prosecution witnesses.
2.	**Item No. 12.1**
	SLP (Crl.) No. 592 of 2025: No delay in filing **Accused:** Sanjay Modanwal **Role of Accused:** Sanjay Modanwal, along with his wife, Shikha Devi @ Shikha Modanwal (co-accused), played a key role in acquiring trafficked children. After kidnapping these children, they would circulate their photos among the other members of their trafficking racket. Once they identified a potential customer, they would sell the trafficked child to a middleman within the gang, facilitating the further sale of the victim. **FIR Registered:** FIR No. 193/2023, P.S Bhelupur, Varanasi and FIR No. 74/2023, P.S Vindhyachal, Mirzapur. **Consideration by High Court while granting Bail:** ▪ He has not been named in the FIR. Name was disclosed by co-accused Manish Jain in police custody. ▪ Victim Recovered was not recovered from his possession. ▪ Similarly situated co-accused in terms of role; Santosh Gupta @ Santosh Modanwal has been granted bail. ▪ No criminal antecedents ▪ He has been in custody for 1-year 2-months. **Conditions of Bail granted by High Court:** ▪ Appear on each and every date fixed by the trial court; ▪ Not tamper with the prosecution evidence; and, ▪ Not pressurize the prosecution witnesses.
3.	**Item No. 12.2 and 12.17**
	SLP (Crl.) 590 of 2025 and SLP (Crl.) D-No. 50517/ 2024: Nil and 12-days delay in filing. **Accused:** Shivam Gupta @ Praveen Modanwal **Role of Accused:** Shivam Gupta is also a resident of Varanasi, who along with his accomplices, trafficked minor children. He, along with his father, Santosh Gupta and others, kidnapped multiple children from various locations, including Chowka Gate, Allahabad, and Mirzapur, between March and April 2023. After the kidnappings, he helped transport the children to Shikha Devi, who facilitated their sale. He participated in the kidnapping of

	the minor children, most of whom were sold to buyers in Jharkhand, often for sums between Rs. 40,000 and Rs. 1,50,000. **FIR Registered:** FIR No. 193/2023, P.S Bhelupur, Varanasi; FIR No. 201/2023, P.S Cantt, Varanasi; FIR No. 50/2023, P.S. Chetganj, Varanasi; FIR No. 74/2023, P.S Vindhyachal, Mirzapur and FIR No. 76/2023, P.S Daraganj, Prayagraj. **Consideration by High Court while granting Bail** In FIR No. 193/2023: - ▪ He has not been named in the FIR. Name was disclosed by co-accused in police custody. ▪ Co-accused Manish Jain has been granted bail. ▪ He has been in custody for 1-year 2-months. In FIR No. 193/2023: - *"Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence and all attending facts and circumstances of the case, without expressing any opinion on merits of the case [...]"* **<u>Conditions of Bail granted by High Court</u>** In FIR No. 193/2023: - ▪ Not tamper with the prosecution evidence; ▪ Not pressurize the prosecution witnesses; and, ▪ Appear on each and every date fixed by the trial court; In FIR No. 50/2023: - ▪ Not tamper with the prosecution evidence; ▪ Not influence any witness, ▪ Appear before the trial court on the date fixed unless personal presence is exempted; and, ▪ 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 such facts to the Court to any police officer or tamper with the evidence.
4.	**Item No. 12.3 and 12.10**
	SLP (Crl.) D-No.49397/2024 and SLP (Crl.) D-No. 50423/ 2024: 160-days and 169-days delay in filing **Accused:** Jagveer Baranwal **Role of Accused:** Jagveer Baranwal is a resident of Jharkhand. He was actively involved in purchasing kidnapped children from his accomplices at low prices and reselling them for significantly higher amounts. Jagveer, who worked as a nurse alongside Anuradha Devi, leveraged his position to facilitate these illegal transactions. The police even recovered a trafficked child directly from his possession as he and his accomplices were preparing to sell the child in another connected case of child trafficking.

	FIR Registered: FIR No. 193/2023, P.S Bhelupur, Varanasi; FIR No. 201/2023, P.S Cantt, Varanasi; FIR No. 74/2023, P.S Vindhyachal, Mirzapur and FIR No. 76/2023, P.S Daraganj, Prayagraj. **Consideration by High Court while granting Bail:** In FIR No. 193/2023: - ▪ He has not been named in the FIR. Name was disclosed by co-accused Anuradha Devi in police custody. ▪ Similarly situated co-accused in terms of role; co-accused Manish Jain has been granted bail. ▪ He has been in custody for 8-months. In FIR No. 201/2023: - ▪ No material on record with regard to tampering of evidence or intimidation of witness. ▪ Pendency of several criminal cases against the accused itself no basis for refusal of bail. ▪ No evidence with regard to criminal antecedents. ▪ Bail is a rule, jail is an exception **Conditions of Bail granted by High Court:** In FIR No. 193/2023: - ▪ Not tamper with the prosecution evidence; ▪ Not pressurize the prosecution witnesses; and, ▪ Appear on each and every date fixed by the trial court; In FIR No. 201/2023: - ▪ Not tamper with the evidence during trial; ▪ Not pressurize / intimidate the prosecution witnesses; ▪ Appear on each and every date fixed by the trial court, unless personal presence is exempted; ▪ Shall make himself available for interrogation by a police officer as and when required ▪ Not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected; ▪ 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 such facts to the Court or to any police officer or tamper with the evidence; ▪ Not leave India without the previous permission of the Court; and, ▪ In the event, he changes residential address, he shall inform the court concerned about new residential address in writing.
5.	**Item No. 12.5**
	SLP (Crl.) D-No. 49600/2024: 202-days delay in filing. **Accused:** Yashoda Devi Pandit **Role of Accused:** Yashoda Devi Pandit, along with her husband Mukesh Pandit, purchased the Petitioner, Sanjay's minor son, Rohit for Rs. 2,60,000 from co-accused Jagveer Baranwal, Anuradha, and Shikha Devi. The police

	raided her home in Hazaribagh, Jharkhand, and recovered the child, whom she had named Anup Pandit. **FIR Registered:** FIR No. 193/2023, P.S Bhelupur, Varanasi and FIR No. 74/2023, P.S Vindhyachal, Mirzapur. **Consideration by High Court while granting Bail:** *"Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and keeping in mind that co accused has already been released on bail by this Court and without expressing any opinion on the merit of the case [...]"* **Conditions of Bail granted by High Court** ▪ File an undertaking to the effect that applicant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law; ▪ Remain present before the trial court on each date fixed, either personally or through his/her counsel. In case of his absence, without sufficient cause, the trial court may proceed against applicant under Section 229-A of the IPC; ▪ In case, the applicant misuses the liberty of bail during trial and in order to secure presence of the applicant, proclamation under Section 82 Cr.P.C. is issued and the applicant fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against the applicant, in accordance with law, under Section 174 A of the IPC; and, ▪ Remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against the applicant in accordance with law.
6.	**Item No. 12.5**
	SLP (Crl.) D-No. 496639/2024: 161-days delay in filing. **Accused:** Mukesh Pandit **Role of the Accused:** Mukesh Pandit, along with his wife Yashoda Devi, purchased the Petitioner Sanjay's minor son, Rohit for Rs. 2,60,000 from co accused Jagveer Baranwal, Anuradha, and Shikha Devi. He was involved in negotiating and finalizing the deal for the trafficked child. The police later recovered the child from their home in Hazaribagh, Jharkhand. **FIR Registered:** FIR No. 193/2023, P.S Bhelupur, Varanasi and FIR No. 74/2023, P.S Vindhyachal, Mirzapur.

	Consideration by High Court while granting Bail: "*Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and keeping in mind that co accused has already been released on bail by this Court and without expressing any opinion on the merit of the case [...]*" **Conditions of Bail granted by High Court:** ▪ File an undertaking to the effect that applicant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law; ▪ Remain present before the trial court on each date fixed, either personally or through his/her counsel. In case of his absence, without sufficient cause, the trial court may proceed against applicant under Section 229-A of the IPC; ▪ In case, the applicant misuses the liberty of bail during trial and in order to secure presence of the applicant, proclamation under Section 82 Cr.P.C. is issued and the applicant fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against the applicant, in accordance with law, under Section 174 A of the IPC; and, ▪ Remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against the applicant in accordance with law.
7.	**Item No. 12.7, 12.14 and 12.16**
	SLP (Crl.) D-No. 49643/2024; SLP (Crl.) D-No. 50455/2024 and SLP (Crl.) D-No. 50516/2024: 67-days, 85-days & 38-days delay in filing respectively. **Accused:** Santosh Gupta @ Santosh Modanwal **Role of the Accused:** Santosh Gupta is a resident of Varanasi, Uttar Pradesh. Along with his co-accused, Vinay Mishra and Shivam Gupta (his son), Santosh Gupta was responsible for trafficking vulnerable children from different regions, particularly from Allahabad. After trafficking the children, they were kept in the custody of Shikha Devi and Sanjay Modanwal, before being sold to customers. He played a key role in acquiring the kidnapped children at low prices and selling them at higher prices with the help of accomplices like Manish Jain and Shikha. **FIR Registered:** FIR No. 193/2023, P.S Bhelupur, Varanasi; FIR No. 201/2023, P.S Cantt, Varanasi; FIR No. 50/2023, P.S. Chetganj, Varanasi; FIR No. 74/2023, P.S Vindhyachal, Mirzapur and FIR No. 76/2023, P.S Daraganj, Prayagraj.

	Consideration by High Court while granting Bail: In FIR No. 193/2023: - *"Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, at this stage, without expressing any opinion on the merits of the case [...]"* In FIR No. 201/2023: - ▪ He has not been named in the FIR. Name was disclosed by co-accused Jagveer Baranwal in police custody. ▪ Victim was not recovered from his possession. ▪ Out of four cases of criminal history, one bail order has been appended. ▪ Similarly situated co-accused in terms of role; Nandlal Ram has been granted bail. In FIR No. 50/2023: - *"Considering the facts and circumstances of the case and submissions made by learned counsel for the applicant and learned A.G.A., without expressing any opinion on the merits of the case [...]"* **<u>Conditions of Bail granted by High Court</u>** ▪ Not tamper with the prosecution evidence; and, ▪ Remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against the applicant in accordance with law. In FIR No. 201/2023: - ▪ Attend and co-operate the trial proceedings pending before the court concerned on the dates fixed after release. ▪ Not tamper with the witnesses; ▪ Not indulge in any illegal activities during the bail period. In FIR No. 50/2023: - ▪ Not tamper with the evidence during the trial; ▪ Not influence any witness; ▪ Appear before the trial court on the date fixed, unless personal presence is exempted; and, ▪ 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 such facts to the Court to any police officer or tamper with the evidence.
8.	**Item No. 12.8**
	SLP (Crl.) D-No. 50418/2024: 236-days delay in filing. **Accused:** Gudiya Devi

	Role of the Accused: Gudiya Devi is a resident of Jharkhand who played a significant role in trafficking minor children. Her primary responsibility is identifying potential customers for the trafficked children and receiving a commission for aiding the trafficking process. She was frequently involved in multiple transactions, including selling children brought by accused persons namely, Shikha Devi, Vinay Mishra, Jagveer Baranwal, Anuradha Devi, Santosh Gupta, Shivam Gupta. Gudiya helped in selling the trafficked children for amounts ranging from Rs. 40,000 to Rs. 3,50,000 and more. **FIR Registered:** FIR No. 193/2023, P.S Bhelupur, Varanasi and FIR No. 201/2023, P.S Cantt, Varanasi. **Consideration by High Court while granting Bail:** ▪ No material evidence regarding tampering of evidence or intimidating of witness in previous criminal cases ▪ Pendency of several criminal cases against an accused may itself cannot be a basis for refusal of bail ▪ No evidence with regard to criminal antecedents ▪ Bail is a rule, jail is an exception **Conditions of Bail granted by High Court:** ▪ Not tamper with the evidence during the trial; ▪ Not pressurize/intimidate the prosecution witness; ▪ Appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicant shall make herself available for interrogation by a police officer as and when required; ▪ Not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected; ▪ Not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence; ▪ Not leave India without the previous permission of the Court; and, ▪ In the event, the applicant changes residential address, the applicant shall inform the court concerned about new residential address in writing.
9.	**Item No. 12.9**
	SLP (Crl.) D-No. 50422/2024: 182-days delay in filing. **Accused:** Anuradha Devi **Role of the Accused:** Anuradha Devi, a nurse at a primary health centre in Hazaribagh, Jharkhand, is the kingpin of the organized inter-state child trafficking racket. Using her unrestricted access to vulnerable children, she orchestrated the kidnapping and trafficking of minor children. With the help of her associates namely, Jagveer Baranwal, Manish Jain, Gudiya Devi, Shikha Devi, Vinay Mishra, Shivam Gupta and others, she bought trafficked children at prices as low as Rs. 20,000 and sold them at significantly higher rates, amounting to Rs. 3,50,000. Her operation is extensive, involving numerous transactions where children were trafficked from various regions.

	Anuradha's heinous role in exploiting and selling minor children is supported by the statements of several co-accused. **FIR Registered:** FIR No. 193/2023, P.S Bhelupur, Varanasi; FIR No. 201/2023, P.S Cantt, Varanasi; FIR No. 74/2023, P.S Vindhyachal, Mirzapur and FIR No. 76/2023, P.S Daraganj, Prayagraj. **Consideration by High Court while granting Bail:** *"Considering the facts and circumstances of the case and submissions made by learned counsel for the applicant and learned A.G.A., without expressing any opinion on the merits of the case [...]"* **Conditions of Bail granted by High Court:** ▪ File an undertaking to the effect that applicant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law; ▪ Remain present before the trial court on each date fixed, either personally or through his/her counsel. In case of his absence, without sufficient cause, the trial court may proceed against applicant under Section 229-A of the IPC; ▪ In case, the applicant misuses the liberty of bail during trial and in order to secure presence of the applicant, proclamation under Section 82 Cr.P.C. is issued and the applicant fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against the applicant, in accordance with law, under Section 174 A of the IPC; and, ▪ Remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against the applicant in accordance with law.
10.	**Item No. 12.11 and 12.15**
	SLP (Crl.) D-No. 50430/2024 and SLP (Crl.) D-No. 50515/ 2024: 154-days and 64-days delay in filing respectively. **Role of the Accused:** Manish Jain, a resident of Rajasthan, is a key player in the organized inter-state child trafficking racket. He actively managed the illegal operations, coordinating the sale and purchase of trafficked children across regions. He frequently worked with co-accused like Vinay Mishra and Shikha Devi, trafficking minors and selling them at higher prices. In March and April 2023, he sold multiple trafficked children for amounts ranging from Rs. 40,000 to Rs. 2,60,000. He was arrested by the police in Varanasi while attempting to sell a 4 year-old boy-child named Rohit, a trafficked victim child in FIR No. 193/2023 (P.S. Bhelupur).

FIR Registered: FIR No. 193/2023, P.S Bhelupur, Varanasi; FIR No. 201/2023, P.S Cantt, Varanasi and FIR No. 50/2023, P.S. Chetganj, Varanasi.

Consideration by High Court while granting Bail:
In FIR No. 193/2023: -
"Considering the facts and circumstances of the case and submissions made by learned counsel for the applicant and learned A.G.A., without expressing any opinion on the merits of the case [...]"

In FIR No. 50/2023: -
- No material on record with regard to tampering of evidence or intimidation of witness.
- Pendency of several criminal cases against the accused itself no basis for refusal of bail.
- No evidence with regard to criminal antecedents.
- Bail is a rule, jail is an exception

Conditions of Bail granted by High Court
In FIR No. 193/2023: -
- File an undertaking to the effect that applicant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law;
- Remain present before the trial court on each date fixed, either personally or through his/her counsel. In case of his absence, without sufficient cause, the trial court may proceed against applicant under Section 229-A of the IPC;
- In case, the applicant misuses the liberty of bail during trial and in order to secure presence of the applicant, proclamation under Section 82 Cr.P.C. is issued and the applicant fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against the applicant, in accordance with law, under Section 174 A of the IPC; and,
- Remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against the applicant in accordance with law.

In FIR No. 50/2023: -
- Not tamper with the prosecution evidence; and,
- Remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against the applicant in accordance with law.

11.	**Item No. 12.12**
	SLP (Crl.) D-No. 50435/2024: 138-days delay in filing. **Role of the Accused:** Nandlal Ram is a resident of Kolkata, West Bengal who purchased the trafficked one-year-old son of the Petitioner, Ms. Pinki in FIR No. 201/2023. He purchased the victim boy child from his co-accused, Anuradha Devi for Rs. 3,50,000 lakhs. During the course of the police investigation, the authorities tracked the boy to Nandlal's possession in Kolkata, where the child was eventually recovered. **FIR Registered:** FIR No. 201/2023, P.S Cantt, Varanasi **Consideration by High Court while granting Bail:** ▪ No evidence regarding the accused absconding, or probability of repeating the same offences, or intimidating the witnesses. ▪ No evidence regarding criminal antecedents. **Conditions of Bail granted by High Court:** ▪ Not tamper with the evidence during the trial; ▪ Not pressurize/intimidate the prosecution witness; ▪ Appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicant shall make herself available for interrogation by a police officer as and when required; ▪ Not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected; ▪ Not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence; ▪ Not leave India without the previous permission of the Court; and, ▪ In the event, the applicant changes residential address, the applicant shall inform the court concerned about new residential address in writing.
12.	**Item No. 12.13**
	SLP (Crl.) D-No. 50453/2024: 96-days Delay in filing **Accused:** Kuldeep Paswan @ Kuldeep Ram **Role of the Accused:** Kuldeep Paswan is a resident of Jharkhand who played a significant role in the trafficking of minor children, working closely with accomplices namely Gudiya Devi, Jagveer Baranwal, and Anuradha Devi. He was involved in the buying and selling of trafficked children, often purchasing them at low prices and reselling them at significantly higher amounts. Kuldeep, along with his co accused, sold a trafficked child for Rs. 3,50,000, who was brought to them by accused Shikha Devi and Vinay Mishra. His involvement in these transactions highlights his active participation in the organized trafficking of minors, further facilitated by Gudiya Devi, who identified potential customers. **FIR Registered:** FIR No. 201/2023, P.S Cantt, Varanasi

	Consideration by High Court while granting Bail: ▪ Name was disclosed by co-accused Anuradha Devi in police custody. ▪ Victim Recovered from co-accused Nandlal Ram who has been enlarged on bail. ▪ Similarly situated co-accused in terms of role; Gudiya Devi has also been granted bail. ▪ He has been in custody for 8-months.

36. We have been provided with information as regards the current status of the accused persons:

CURRENT STATUS OF ACCUSED PERSONS

S. No.	Name of the accused	FIR No. 201/2023 P.S. Cantt., Varanasi	FIR No. 193/2023 P.S. Bhelupur, Varanasi	FIR No. 50/2023 P.S. Chetganj, Varanasi
1.	Santosh Sao	**On Bail** Vide order dt. 13.12.2023 in Crl. Misc. Bail Appl. No. 47159/2023.	**On Bail** Vide order dt. 09.11.2023 in Crl. Misc. Bail Appl. No. 42631/2023.	N.A.
2.	Jagveer Baranwal	**On Bail** Vide order dt. 15.02.2024 in Crl. Misc. Bail Appl. No. 50911/2023.	**On Bail** Vide order dated 12.02.2024 in Crl. Misc. Bail Appl. No. 54874/2023.	N.A.
3.	Santosh Gupta @Santosh Modanwal	**On Bail** Vide order dt. 06.05.2024 in Crl. Misc. Bail Appl. No. 16387/2024.	**On Bail** Vide order dt. 20.05.2024 in Crl. Misc. Bail Appl. No. 19579/2024.	**On Bail** Vide order dt. 19.06.2024 in Crl. Misc. Bail Appl. No. 18846/2024.
4.	Gudiya Devi	**On Bail** Vide order dt. 07.12.2023 in Crl. Misc. Bail Appl. No. 46240/2023.	**Re-arrested on 20.02.2025** NBW issued vide order dt. 17.02.2025 by CJM in Crl. Case No. 93745/2023. Bail order set aside by this Court in SLP (Crl.) No. 1042/2024 vide order dated 24.09.2024.	N.A.
5.	Anuradha Devi	**On Bail** Vide order dt. 30.01.2024 in Crl. Misc. Bail Appl. No. 50428/2023.	**Re-arrested on 20.02.2025** NBW issued vide order dt. 17.02.2025 by CJM in Crl. Case No. 93745/2023. Bail order set aside by this Court in SLP (Crl.) No.	N.A.

			1046/2024 vide order dated 24.09.2024.	
6.	Manish Jain	**On Bail** Vide order dt. 27.02.2024 in Crl. Misc. Bail Appl. No. 291/2024.	**On Bail** Vide order dt. 21.11.2023 in Crl. Misc. Bail Appl. No. 47898/2023.	**On Bail** Vide order dt. 27.05.2024 in Crl. Misc. Bail Appl. No. 17559/2024.
7.	Nandlal Ram	**On Bail** Vide order dt. 14.03.2024 in Crl. Misc. Bail Appl. No. 42319/2023.	N.A.	N.A.
8.	Kuldeep Paswan @Kuldeep Ram	**On Bail** Vide order dt. 25.04.2024 in Crl. Misc. Bail Appl. No. 51046/2023.	N.A.	N.A.
9.	Sanjay Modanwal	N.A.	**On Bail** Vide order dt. 12.08.2024 in Crl. Misc. Bail Appl. No. 18231/2024.	N.A.
10.	Shivam Gupta @Praveen Modanwal	**On Bail** Vide order dt. 26.07.2024 in Crl. Misc. Bail Appl. No. 25766/2024.	Order granting bail has not been challenged.	**On Bail** Vide order dt. 18.07.2024 in Crl. Misc. Bail Appl. No. 26287/2024.
11.	Mahesh Rana	N.A.	**On Bail** Vide order dt. 07.02.2024 in Crl. Misc. Bail Appl. No. 51016/2023.	N.A.
12.	Yashoda Devi Pandit	N.A.	**On Bail** Vide order dt. 04.01.2024 in Crl. Misc. Bail Appl. No. 53108/2023	N.A.
13.	Mukesh Pandit	N.A.	**On Bail** Vide order dt. 16.02.2024 in Crl. Misc. Bail Appl. No. 53348/2023	N.A.
14.	Sunita Devi	N.A.	Order granting bail set aside by this Court in SLP (Crl.) No. 1041/2024 vide order dt. 24.09.2024.	N.A.
15.	Mahesh Rana	N.A.	Order granting bail set aside by this Court in SLP (Crl.) No. 1044/2024 vide order dt. 24.09.2024.	N.A.
16.	Sangeeta Devi	Order granting Bail has not been challenged.	**Re-arrested on 03.03.2025** NBW issued vide order dt. 17.02.2025 by CJM in Crl. Case No. 93745/2023. Bail order set aside by this Court in SLP (Crl.) No. 1045/2024 vide order dated 24.09.2024.	N.A.

D. ORDER PASSED BY COORDINATE BENCH IN CRIMINAL APPEAL NO. 3997 OF 2024 AND ALLIED APPEALS CANCELLING THE BAIL GRANTED TO SOME OF THE ACCUSED PERSONS.

37. The order reads thus: -

> *"ORDER*
>
> *1. Leave granted.*
>
> *2. Heard Ms. Aparna Bhat, learned senior counsel appearing for the appellant (informant). Also heard Mr. Garvesh Kabra, learned counsel appearing for the respondent – State of Uttar Pradesh.*
>
> *3. The office report dated 23.09.2024 indicates that service is complete on the accused (respondent No. 2) in all the cases but none has entered their appearance.*
>
> *4. These matters arise out of the common FIR No. 193 of 2023 registered under Section 363 of the IPC relating to the appellant's 4 year old son, who went missing at night. The Police after some investigation noticed that it was a child trafficking case and accordingly added Section 370 (5) of the IPC. Subsequently, chargesheet against 14 accused was filed under Sections 363, 311 and 370(5) of the IPC. The unofficial respondents herein are named as accused in the chargesheet.*
>
> *5. While challenging the bail orders passed on 04.10.2023, 08.11.2023, 09.11.2023, 12.12.2023 and 15.12.2023, Ms. Aparna Bhat, learned senior counsel submits that these are organised child trafficking cases and the bail for the accused was unmerited.*
>
> *6. In the counter affidavit filed by the State, it is pointed out that these cases pertain to child trafficking racket involving kidnapping and selling of minor children. The activities of the accused spread across the States of Uttar Pradesh, Jharkhand and Rajasthan. The affidavit also indicates the nature of evidence that has been collected by the Police and it is averred that those will show the complicity of accused.*

7. The punishment envisaged in the event of conviction for the charged sections is minimum 14 years which can extend upto life imprisonment. Notwithstanding the serious nature of the crime as also the likely involvement of the accused in the child trafficking racket, we notice from the impugned order(s) that the High Court without considering the relevant parameters in cases of this nature, granted bail to the accused.

8. The concerned accused despite service have failed to appear in Court to defend the bail order.

9. We are therefore of the considered opinion that the bail order(s) requires our interference. Accordingly, the impugned orders of the High Court dated 04.10.2023, 08.11.2023, 09.11.2023, 12.12.2023 and 15.12.2023 granting bail to the accused Gudiya Devi, Mahesh Rana, Santosh Saw, Sangeeta Devi, Anuradha Devi & Sunita Devi are set aside and quashed. The appeals are allowed. As the bail is being cancelled, all the accused must immediately surrender. If they do not do so, the Police must take steps to arrest the accused. It is ordered accordingly.

10. Pending application(s), if any, shall stand disposed of.

(Emphasis supplied)

E. GRANT OF BAIL BY THE HIGH COURT

38. We take notice of the fact that practically in all the cases the High Court while releasing the accused persons on bail took into consideration the following aspects: -

i) The accused has not been named in the FIR;

ii) The name of the accused has been disclosed by a co-accused;

iii) Victim has not been recovered from the custody of the accused;

iv) Similarly situated co-accused has been granted bail;

v) No material evidence regarding tampering of evidence or intimidating of witness in previous criminal cases;

vi) Bail is a rule, jail is an exception.

F. SUBMISSIONS OF THE PARTIES

i. Submissions on behalf of the Appellants.

39. Ms. Aparna Bhat, the learned counsel appearing for the victims/appellants vehemently submitted that the High Court committed a serious error in releasing the accused persons on bail by completely undermining the serious nature of the crime alleged. She would submit that the High Court failed to consider an important aspect of the matter that the FIRs were registered as cases of missing children. How does the High Court expect precise details in the FIRs? She would submit that the recovery memos indicate the manner in which the investigation was conducted and how each accused not only led the investigation agency to apprehend the other accused but also led to retrieval of the children. She brought to our notice that each child was found from the home/custody of one or the other accused persons.

40. Ms. Aparna Bhat brought something very shocking to our notice. As an illustration Ms. Bhat pointed out that the respondent no. 2 in SLP(CRL.)

4667 of 2025, namely, Anuradha Devi is a nurse serving in a primary health centre at Hazari Bagh Chhattisgarh. Similarly, the respondent no. 2 in SLP (CRL.) 4668 of 2025 and SLP (CRL.) 4660 of 2025 respectively, namely, Jagveer Baranwal is also directly involved in child trafficking. At least four of the trafficked children were retrieved at their instances from the persons to whom they had sold the children.

41. Ms. Bhat would submit that if such individuals are granted bail they would return to the place of their work and continue indulging in such nefarious activities which constitute a very serious crime.

42. In such circumstances referred to above, Ms. Bhat prayed that there being merit in all her appeals those may be allowed and the orders passed by the High Court granting bail to the accused persons be set aside and they should be ordered to be taken back in custody.

ii. <u>Submissions on behalf of accused persons; Santosh Sao and Jagveer Baranwal</u>.

43. Ms. Tanya Agarwal, the learned counsel appearing for one of the accused persons, namely, Santosh Sao submitted that her client cannot be said to be one of the members of the gang operating for the purpose of human trafficking. She would submit that her client is a poor man residing in a small village in the State of Jharkhand. He is a father of four daughters

(aged between 16 years – 3 years). The counsel would submit that her client is the sole bread earner of the family. It was argued that the accused Santosh Sao has no role to play either in kidnapping or selling. She further argued that the trafficked child was not found from the custody of her client but was found from the custody of one Nand Lal Ram. According to the learned counsel the name of her client came to be disclosed at the instance of one co-accused, namely, Anuradha Devi.

44. Ms. Agarwal further submitted that her client is very much available for trial. His whereabouts are very much known to the police and he is regularly attending the trial court.

45. In such circumstances referred to above, Ms. Agarwal prayed that the bail of her client may not be cancelled.

iii. <u>Submissions on behalf of accused; Manish Jain</u>.

46. Ms. Sangeeta Singh, the learned counsel appearing for one of the accused persons, namely, Manish Jain submitted that the High Court committed no error much less any error of law in ordering release of her client on bail. She would submit that no child was retrieved from her client and the entire case against her client is based on the statements of the other co-accused. In this regard she pointed out the following: -

> *"Bail granted on 27.02.2024 in Cri.Misc. Bail App. No. 201/2024 in FIR No. 201/2023.*

Bail granted in Crl.Misc. Bail App. No. 47898 of 2023 in FIR No. 193/2023 on 21.11.2023.
Bail granted in Crl.Misc. Bail App. No.17559/2024 in FIR No. 50/2023 on 27.05.2024."

47. She further submitted that cancellation of bail is prayed for at the instance of the first informant and not by the State. According to her, the first informant has personal vengeance to wreck against her client.

48. In such circumstances, the learned counsel prayed that no case is made out by the first informant for the purpose of cancellation of bail of the accused, namely, Manish Jain and therefore, the orders passed by the High Court releasing Manish Jain on bail may not be disturbed.

iv. <u>Submissions on behalf of the State</u>.

49. Mr. Garvesh Kabra, the learned counsel appearing for the State of U.P. adopted all the submissions canvassed by Ms. Aparna Bhat appearing for the appellants. He submitted after obtaining instructions from the concerned courts below as well as the investigation officers that the whereabouts of most of the accused persons are not known as on date. He pointed out that after being released on bail many of the accused persons have absconded and are not appearing before the courts below for the purpose of committal proceedings.

G. ANALYSIS

50. Having heard the learned counsel appearing for the parties and having gone through materials on record the only question that falls for our consideration is whether the High Court committed any error in passing various orders releasing the accused persons on bail?

51. In ***Bachpan Bachao and Ors v. UOI and Ors.*** reported in **2010 SCC OnLine Del 4613**, A.K. Sikri, J. (as His Lordship then was) speaking for the Bench observed that: -

> *"17. Trafficking in women and children is the gravest form of abuse and exploitation of human beings. Thousands of Indians are trafficked everyday to some destination or the other and are forced to lead lives of slavery. They are forced to survive in brothels, factories, guesthouses, dance bars, farms and even in the homes of well-off Indians, with no control over their bodies and lives. The Indian Constitution specifically bans the trafficking of persons. Article 23, in the Fundamental Rights, Part III of the Constitution, prohibits "traffic in human beings and other similar forms of forced labour". Though there is no concrete definition of trafficking, it could be said that trafficking necessarily involves movement/transportation, of a person by means of coercion or deceit, and consequent exploitation leading to commercialization. The abusers, including the traffickers, the recruiters, the transporters, the sellers, the buyers, the end-users etc., exploit the vulnerability of the trafficked person. Trafficking shows phenomenal increase with globalization. Increasing profit with little or no risk, organized activities, low priority in law enforcement etc., aggravate the situation. The income generated by trafficking is comparable to the money generated through trafficking in arms and drugs. Trafficking in human beings take place for the purpose of exploitation which in general could be categorized as (a) Sex-based and (b) Non-sex-based. The former category includes trafficking for prostitution, Commercial sexual abuse, paedophilia, pornography, cyber sex, and different types*

of disguised sexual exploitation that take place in some of the massage parlours, beauty parlours, bars, and other manifestations like call girl racket, friendship clubs, etc. Non sex based trafficking could be for different types of servitude, like domestic labour, industrial labour, adoption, organ transplant, camel racing, marriage related rackets etc. But the growing trafficking in women is principally for the purpose of prostitution. Prostitution is an international problem. However, we are aware of the fact that it is legalized in many countries around the globe. Unfortunately, society remains tolerant of this abominable crime against women. There are assorted ways of getting women into prostitution that are common to many countries; then there are particular unique methods varies to a country. Probably, the three most common methods are false employment promises, false marriages and kidnapping. But what makes women and girls vulnerable are economic distress, desertion by their spouses, sexually exploitative social customs and family traditions. In a recent survey in India, prostituted women cited the following reasons for their remaining in the trade, reasons that have been echoed in all the concerned countries. In descending order of significance, they are: poverty and unemployment; lack of proper reintegration services, lack of options; stigma and adverse social attitudes; family expectations and pressure; resignation and acclimatization to the lifestyle. The two principal Indian laws that addresses the trafficking and prostitution in particular are the Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA) and the Immoral Traffic (Prevention) Act, 1986 (ITPA), colloquially called PITA, and amendment to SITA. Neither law prohibits prostitution per se, but both forbids commercialized vice and soliciting.

18. India is said to have adopted a tolerant approach to prostitution whereby an individual is free to carry on prostitution provided it is not an organized and a commercialized vice. However, it commits itself to opposing trafficking as enshrined in Article 23 of the Constitution which prohibits trafficking in human beings. India is also a signatory to international conventions such as the Convention on Rights of the Child (1989), Convention on Elimination of all forms of Discrimination Against Women (1979), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000) and the latest South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating

Trafficking in Women and Children for Prostitution (2002). A trafficked victim is, therefore, a victim of multiplicity of crimes, and extreme form of abuse and violation of human rights. The constitution of India, under Article 23 specifically prohibits trafficking in human beings. At present, the legal regime to trafficking of women and children for commercial sexual exploitation includes the following:

A) Indian Penal Code, 1960;
B) ITPA, 1956;
C) J.J. Act, 2000;
D) Special laws of various states;
E) Rulings of Supreme Court and High Court."

52. His Lordship went on to further observe:

"19. There may be various problems while dealing with the issue of "trafficking". These petitioners seek to highlight limited facets of children being compelled to perform in circus and illegal trafficking in children and failure on the part of the law enforcement agencies as well as the society to protect the fundamental rights of the children. The Government had itself admitted the seriousness of the problem. The report prepared by Mr. Gopal Subramanium, learned Solicitor General of India and submitted in Bachpan Bachao petition, it is sated that the trafficking in human beings is not a new phenomenon. Women, children and men have been captured, bought and sold in market places for decades. Human trafficking is one of the most lucrative criminal activities. Estimates of the United Nations state that 1 to 4 million people are trafficked worldwide each year. Trafficking in women and children is an operation which is worth more than $10 billion annually. The NHRC Committee on Missing Children has the following statistics to offer:

(a) 12.6 million (Governmental sources) a 100 million (unofficial sources) stated to be child labour;
(b) 44,000 children are reported missing annually, of which 11,000 get traced;
(c) About 200 girls and women enter prostitution daily, of which 20% are below 15 years of age.

International conventions exist to punish and suppress trafficking especially against women and children [Ref: UN Protocol to

Prevent, Suppress and Punish Trafficking in Persons also referred as the Palermo Protocol on Trafficking.] Trafficking is now defined as an organized crime against humanity. The convention being an international convention is limited to cross border trafficking but does not address trafficking within the country. The definition of trafficking is significant:

> *"[...] The recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation [...]"*

It is further submitted by the learned Solicitor General that children under 18 years of age cannot give a valid consent. It is further submitted that any recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation is a form of trafficking regardless of the means used. Three significant elements constitute trafficking:

(a) The action involving recruitment and transportation;
(b) The means employed such as force, coercion, fraud or deception including abuse of power and bribes; and
(c) The preliminary purpose being of exploitation including prostitution, etc.

Internationally, there is a working definition of child trafficking. The working definition is clear because it incorporates the above three elements. In June 2001, India has adopted the PALERMO Protocol to evolve its working definition of child trafficking.
The forms and purposes of child trafficking may be : -

(a) Bonded labour;
(b) Domestic work;
(c) Agricultural labour;
(d) Employment in construction activity;
(e) Carpet industry;
(f) Garment industry;
(g) Fish/shrimp export;
(h) Other sites of work in the formal and informal economy.

Trafficking can also be for illegal activities such as : -

(a) Begging;
(b) Organ trade;
(c) Drug peddling and smuggling.

Trafficking can be for sexual exploitation, i.e.

(a) Forced prostitution;
(b)Socially and religiously sanctified forms of prostitution;
(c) Sex tourism;
(d) Pornography.

Child trafficking can be to aid entertainment in sports : -

(a) Circus/dance troupes;
(b) Camel jockeying.

Some problem of "trafficking" is highlighted only to show the plight of children and women, who are taken as domestic help by dubious placement agencies and forced them into flesh trade.

20. Coming back to the medium of placement agencies, poverty and lack of opportunity are major foundation of trafficking. Child trafficking typically begins with a private arrangement between a trafficker and a family member, driven by the family economic plight and the trafficker's desire for profit and cheap labour. Someone comes along and says he or she has professions or jobs for the children and the parents believe it. Parents think that in letting children go they are doing something good for them; but someone takes them as and makes them domestic workers, and someone else takes all the money instead of giving them a salary. Some crimes that are commonly concurrent with child trafficking, or which child trafficking may initially appear to be are:

A) Domestic violence;
B) Child abuse or neglect;
C) Child sexual abuse;
D) Child pornography;
E) Child labour violations."

i. <u>Broad Principles for Grant of Bail</u>.

53. In ***Gudikanti Narasimhulu and Others v. Public Prosecutor, High Court of Andhra Pradesh*** reported in **(1978) 1 SCC 240**, Krishna Iyer,

J., while elaborating on the content of Article 21 of the Constitution of India in the context of personal liberty of a person under trial, has laid down the key factors that should be considered while granting bail, which are extracted as under: -

> *"7. It is thus obvious that the nature of the charge is the vital factor and the nature of the evidence also is pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.*
>
> *8. Another relevant factor is as to whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being [Patrick Devlin, The Criminal Prosecution in England (Oxford University Press, London 1960) p. 75 — Modern Law Review, Vol. 81, Jan. 1968, p. 54.]*
>
> *9. Thus the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record — particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance."*
>
> (Emphasis supplied)

54. In ***Prahlad Singh Bhati v. NCT, Delhi & Anr.*** reported in **(2001) 4 SCC 280**, this Court highlighted various aspects that the courts should keep in mind while dealing with an application seeking bail. The same may be extracted as follows: -

> *"8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. [...]"*
>
> (Emphasis supplied)

55. This Court in ***Ram Govind Upadhyay*** **v.** ***Sudarshan Singh*** reported in **(2002) 3 SCC 598**, speaking through Banerjee, J., emphasised that a court exercising discretion in matters of bail, has to undertake the same judiciously. In highlighting that bail should not be granted as a matter of course, bereft of cogent reasoning, this Court observed as follows: -

> *"3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the*

offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter."

(Emphasis supplied)

56. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan*** reported in **(2004) 7 SCC 528**, this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, yet the court is required to indicate the *prima facie* reasons justifying the grant of bail.

57. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee*** reported in **(2010) 14 SCC 496**, this Court observed that where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court held as under with regard to the circumstances under which an order granting bail may be set aside. In doing so, the factors which ought to have guided the Court's decision to grant bail have also been detailed as under: -

"9. [...] It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) *severity of the punishment in the event of conviction;*
(iv) *danger of the accused absconding or fleeing, if released on bail;*
(v) *character, behaviour, means, position and standing of the accused;*
(vi) *likelihood of the offence being repeated;*
(vii) *reasonable apprehension of the witnesses being influenced; and*
(viii) *danger, of course, of justice being thwarted by grant of bail."*

(Emphasis supplied)

58. In ***Bhoopendra Singh v. State of Rajasthan*** reported in (2021) 17 SCC 220, this Court made observations with respect to the exercise of appellate power to determine whether bail has been granted for valid reasons as distinguished from an application for cancellation of bail i.e. this Court distinguished between setting aside a perverse order granting bail *vis-à-vis* cancellation of bail on the ground that the accused has misconducted himself or because of some new facts requiring such cancellation. Quoting ***Mahipal v. Rajesh Kumar*** reported in (2020) 2 SCC 118, this Court observed as under: -

> *"16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted. [...]"*
>
> (Emphasis supplied)

59. One of the judgments of this Court on the aspect of application of mind and requirement of judicious exercise of discretion in arriving at an order granting bail to the accused is ***Brijmani Devi* v. *Pappu Kumar*** reported in **(2022) 4 SCC 497**, wherein a three-Judge Bench of this Court, while setting aside an unreasoned and casual order [***Pappu Kumar* v. *State of Bihar*** reported in **(2021) SCC OnLine Pat 2856** and ***Pappu Singh* v. *State of Bihar*** reported in **(2021) SCC OnLine Pat 2857**] of the High Court granting bail to the accused, observed as follows: -

> *"35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused."*
>
> (Emphasis supplied)

60. In ***Manoj Kumar Khokhar v. State of Rajasthan and Another*** reported in **(2022) 3 SCC 501**, Her Ladyship B.V. Nagarathna, J, speaking for the Bench observed as under:

> *"37. Ultimately, the court considering an application for bail has to exercise discretion in a judicious manner and in accordance with the settled principles of law having regard to the crime alleged to be committed by the accused on the one hand and ensuring purity of the trial of the case on the other.*
>
> *38. Thus, while elaborate reasons may not be assigned for grant of bail or an extensive discussion of the merits of the case may not be undertaken by the court considering a bail application, an order dehors reasoning or bereft of the relevant reasons cannot result in grant of bail. In such a case the prosecution or the informant has a right to assail the order before a higher forum. As noted in Gurcharan Singh v. State (Delhi Admn.) [Gurcharan Singh v. State (Delhi Admn.), (1978) 1 SCC 118 : 1978 SCC (Cri) 41 : 1978 Cri LJ 129], when bail has been granted to an accused, the State may, if new circumstances have arisen following the grant of such bail, approach the High Court seeking cancellation of bail under Section 439(2) CrPC. However, if no new circumstances have cropped up since the grant of bail, the State may prefer an appeal against the order granting bail, on the ground that the same is perverse or illegal or has been arrived at by ignoring material aspects which establish a prima facie case against the accused."*
>
> (Emphasis supplied)

61. We have referred to the above authorities solely for the purpose of reiterating two conceptual principles, namely, factors that are to be taken into consideration while exercising power of admitting an accused to bail when offences are of serious nature, and the distinction between cancellation of bail because of supervening circumstances and exercise of jurisdiction in nullifying an order granting bail in an appeal when the bail order is assailed on the ground that the same is perverse or based on irrelevant considerations or founded on non-consideration of the factors which are relevant.

62. We are absolutely conscious that liberty of a person should not be lightly dealt with, for deprivation of liberty of a person has immense impact on the mind of a person. Incarceration creates a concavity in the personality of an individual. Sometimes it causes a sense of vacuum. Needless to emphasise, the sacrosanctity of liberty is paramount in a civilised society. However, in a democratic body polity which is wedded to the rule of law an individual is expected to grow within the social restrictions sanctioned by law. The individual liberty is restricted by larger social interest and its deprivation must have due sanction of law. In an orderly society an individual is expected to live with dignity having respect for law and also giving due respect to others' rights. It is a well-accepted principle that the concept of liberty is not in the realm of absolutism but is a restricted one. The cry of the collective for justice, its desire for peace and harmony and its necessity for security cannot be allowed to be trivialised. The life of an individual living in a society governed by the rule of law has to be regulated and such regulations which are the source in law subserve the social balance and function as a significant instrument for protection of human rights and security of the collective. This is because, fundamentally, laws are made for their obedience so that every member of the society lives peacefully in a society to achieve his individual as well as social interest. That is why Edmond Burke while discussing about liberty opined, "*it is regulated freedom*".

63. It is also to be kept in mind that individual liberty cannot be accentuated to such an extent or elevated to such a high pedestal which would bring in anarchy or disorder in the society. The prospect of greater justice requires that law and order should prevail in a civilised milieu. True it is, there can be no arithmetical formula for fixing the parameters in precise exactitude but the adjudication should express not only application of mind but also exercise of jurisdiction on accepted and established norms. Law and order in a society protect the established precepts and see to it that contagious crimes do not become epidemic. In an organised society the concept of liberty basically requires citizens to be responsible and not to disturb the tranquillity and safety which every well-meaning person desires. Not for nothing J. Oerter stated: "*Personal liberty is the right to act without interference within the limits of the law*."

64. Thus analysed, it is clear that though liberty is a greatly cherished value in the life of an individual, it is a controlled and restricted one and no element in the society can act in a manner by consequence of which the life or liberty of others is jeopardised, for the rational collective does not countenance an anti-social or anti-collective act. [See: **Ash Mohammad v. Shiv Raj Singh**, reported in **(2012) 9 SCC 446**]**.**

65. The newspaper "Times of India", in its Delhi Edition dated 14.04.2025 has reported something extremely shocking and painful. The news item reads thus:

*"**Stolen at birth, sold for lakhs: Trafficking racket busted in city***

TIMES NEWS NETWORK

New Delhi: A gang of alleged child traffickers involved in the abduction and sale of new-borns in different states has been busted by the police. Three individuals, including two women, were arrested in connection with the case, and two infants-one just four to five days old-were rescued.

According to police, the gang operated across state lines, targeting remote villages and hospitals in Rajasthan and Gujarat. Newborns, some barely days old, were stolen and then kept in slum areas around Delhi before being sold to childless couples for sums ranging from Rs. 5 to Rs. 10 lakh.

So far, police believe the gang trafficked at last 35 infants into Delhi. Efforts are underway to trace the origins of the rescued children and locate their biological parents.

The breakthrough came on April 8, when the special staff team of Dwarka district received a tip off about an infant being allegedly sold in Uttam Nagar. "Acting swiftly, police reached the location near Uttam Nagar East Metro Station and found a silver car parked on the roadside. Inside, a newborn was found crying uncontrollably in the sweltering heat, suffering from Police arrest three suspects on the spot-Yasmin (30) from Mohan Garden, Anjali (36) from Malviya Nagar, and Jitender (47) from Madangir. A woman constable quickly took

A SENIOR COP SAYS
Cops reached the location and found a silver car parked on the roadside. Inside, a newborn was found crying uncontrollably in the sweltering heat, suffering from hunger and dehydration the baby in her arms, comforting the infant, before rushing him to a hospital, where doctors said the child was only a few days old.

Police said Yasmin brought the baby from the slums of Krishna Colony, claiming the infant was transported from Gujarat. Anjali arrived to collect the child and make the payment, while Jitender was driving the vehicle. The deal, worth Rs. 5 lakh was to be finalised upon delivery of the baby. Police said Anjali had earlier been arrested by CBI in a similar case of human trafficking.

Based on information provided by Yasmin during interrogation, a second baby was located and rescued. Cops are now working to identify the infants' parents and uncover the full extent of the gang's operations.

Preliminary investigation suggests that the gang had a widespread network not only in slums but also in some upscale neighbourhoods of Delhi. Sources indicate that some medical professionals may also be complicit in the racket,

hunger and dehydration," a senior police officer said, adding, "Ignoring the child's desperate cries, the occupants of the vehicle were allegedly busy negotiating the sale."	*helping connect the gang to potential buyers.* *Police have taken the accused into custody and are conducting searches in Rajasthan and Gujarat to gather more evidence."*

66. Thus, it appears that a huge gang is dangerously operating within & outside Delhi and is selling trafficked infants and children in different States for sums ranging from Rs. 5,00,000/- to 10,00,000/-. It also appears from the reporting that some of the accused persons who have been arrested are habitual offenders. The report says that one Anjali who had been earlier arrested by CBI in a similar case of human trafficking is said to be involved in the present incident.

H. CONCLUSION

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

68. We are thoroughly disappointed with the manner in which the State handled the situation. Why did the State not do anything for all this period of time? Why did the State not deem fit to challenge the orders of bail passed by the High Court? The State unfortunately has exhibited no seriousness worth the name.

69. The accused, namely, Santosh Sao claims to be a poor man and a father of four minor daughters. Unfortunately, the role ascribed to Santosh Sao is also very dubious. It appears *prima facie* that Santosh Sao was longing for a son and he went to the extent of purchasing a trafficked minor male child, named, Sunny Nishad. The case against him is that he bought the male child from two co-accused, namely, Jagveer Baranwal and Anuradha Devi for Rs. 4,00,000/-. We are of the view that Santosh Sao is

equally responsible. He may not be directly involved in actual kidnapping of the minor male child but at the same time *prima facie* knowledge could definitely be imputed to him that the minor child he was purchasing for Rs. 4,00,000/- was a trafficked child. The desire of Santosh Sao is one of the unfortunate illustrations of the evil that men do. The extent to which people go to have a male child. They do not hesitate to purchase a trafficked child at the cost of causing pain, agony and immense trauma to the biological parents of the trafficked child.

70. So far as the accused, namely, Manish Jain is concerned, he appears to be one of the kingpins in the entire racket. The case against him is that he is one of the key players in the organized interstate child trafficking racket. There is *prima facie* evidence on record to indicate that he actively managed the illegal operations, coordinating the sale and purchase of trafficked children across regions. He alongwith two co-accused, namely, Vinay Mishra & Shikha Devi is alleged to have been frequently working for the purpose of trafficking minors and selling them for huge amount. It is alleged that between March and April, 2023 he sold multiple trafficked children for the amount ranging between Rs. 40,000/- and Rs. 2,60,000/- .

71. Although the learned counsel appearing for Jagveer Baranwal vehemently submitted that her client has nothing to do with any hospital nor he is serving as a male nurse in the hospital, yet the evidence on record indicates more than prima facie his involvement in collusion with the nurse, namely, Anuradha Devi. There is evidence on record to *prima facie* indicate that the police was able to retrieve one of the trafficked child directly from the custody of the Jagveer Baranwal. The child was found from the custody of Jagveer Baranwal at a point of time when Jagveer and his accomplices were negotiating for the sale of the said child.

72. Modern political scientist and philosopher, also favours certain limitation on liberty, for safeguarding the societal interest and professes the proportionality between the liberty and restriction, thus laying down exception for the personal liberty, in following words:

> *"Men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their own appetites, in proportion as their love to justice is above their rapacity, in proportion as their soundness and sobriety of understanding is above their vanity and presumption, in proportion as they are more disposed to listen to the counsels of the wise and good, in preference to the flattery of knaves. Society cannot exist, unless a controlling power upon will and appetite be placed somewhere; and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things, that men of intemperate minds cannot be free. Their passions forge their fetters."*[5]

[5] John C. Nimmo, *The Works of the Right Honourable Edmund Burke: A Letter to a Member of the National Assembly*, vol. 4 (London).

(Emphasis supplied)

73. Thus, certain restrictions or limitations, on the exercise of personal liberty, by the State or other such human agency, are necessary elements, in the interest of liberty of a well-ordered society or societal interest.[6]

74. This Court has also held that unlimited and unqualified liberty cannot be said to be in favour of societal interest. In ***Kartar Singh v. State of Punjab*** reported in **(1994) 3 SCC 569**, this Court observed:

> *"Liberty cannot stand alone but must be paired with companion virtue i.e. virtue and morality, liberty and law, liberty and justice, liberty and common good, liberty and responsibility which are concomitants for orderly progress and social stability. Man being a rationale individual has to live in harmony with equal rights of others and more differently for the attainment of antithetic desires. This intertwined network is difficult to delineate within defined spheres of conduct within which freedom of action may be confined. Therefore, liberty would not always be an absolute licence but must arm itself within the confines of law. In other words, there can be no liberty without social restraint. Liberty, therefore, as a social conception is a right to be assured to all members of a society. Unless restraint is enforced on and accepted by all members of the society, the liberty of some must involve the oppression of others. If liberty be regarded a social order, the problem of establishing liberty must be a problem of organising restraint which society controls over the individual. Therefore, liberty of each citizen is borne of and must be subordinated to the liberty of the greatest number, in other words common happiness as an end of the society, lest lawlessness and anarchy will tamper social weal and harmony and powerful courses or forces would be at work to undermine social welfare and order. Thus the essence of civil liberty is to keep alive the freedom of the individual subject to the limitation*

[6] Quentin Skinner, *The Paradoxes of Liberty*, The Tanner Lectures on Human Values, Harvard Univ., Oct. 24–25, 1984.

of social control which could be adjusted according to the needs of the dynamic social evolution."

(Emphasis supplied)

75. In ***Gudikanti Narasimhulu*** (supra) this Court observed thus: -

> *"After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of 'procedure established by law'. The last four words of Art. 21 are the life of that human right. The doctrine of Police Power constitutionally validates punitive processes for the maintenance of public order, security of the State, national integrity and the interest of the public generally. Even so, having regard to the solemn issue involved, deprivation of personal freedom, ephemeral or enduring, must be founded on the most serious considerations relevant to the welfare objectives of society, specified in the Constitution*."
>
> (Emphasis supplied)

76. In no circumstances, the High Court could have released Santosh Sao, Jagveer Baranwal & Manish Jain respectively on bail.

77. In such circumstances referred to above, we are of the view that we should set aside all the orders passed by the High Court granting bail to the accused persons and they should be asked to surrender before the trial court.

78. The final word: The true test to ascertain whether discretion has been judiciously exercised or not is to see whether the court has been able to

strike a balance between the personal liberty of the accused and the interest of the State, in other words, the societal interests. Each bail application should be decided in the facts and circumstances of the case having regard to the various factors germane to the well settled principles of grant or refusal of bail. In the words of Philip Stanhope, "***Judgment is not upon all occasions required, but discretion always is***".

79. In the result all these appeals succeed and are allowed. The impugned orders of bail passed by the High Court are hereby set aside.

80. All the accused persons are directed to surrender before the committal court and the committal court in turn shall remand them to judicial custody.

81. We issue the following further directions: -

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.

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.

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 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.

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 day-to-day basis and complete the proceedings of the trial within a period of six months.

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.

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.

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.

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.

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.

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.

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.

l. We direct all the High Courts 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.

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.

82. With the aforesaid, all the appeals stand disposed of.

83. In the course of the hearing of this batch of appeals, we also came across the Writ Petition (Crl.) No. 43 of 2024 in which a coordinate bench of this Court has passed the following order:

> *"1. Heard Ms. Aparna Bhat, learned senior counsel appearing for the petitioner. The Union of India is represented by Ms. Aishwarya Bhati, learned ASG. Mr. Garvesh Kabra, learned counsel appears for respondent No. 2 – State of Uttar Pradesh. Mr. Sarad Kumar Singhania, learned counsel appears for respondent No. 4 – State of Madhya Pradesh. Mr. Milind Kumar, learned counsel appears for respondent No. 5 – State of Rajasthan.*
>
> *2. This Writ Petition is concerned with the plight of children who are victims of organised child trafficking racket spread across multiple States in the country. Young children from vulnerable families are kidnapped and sold to traffickers who work on a network basis.*
>
> *3. Ms. Aparna Bhat, learned senior counsel submits that multiple FIRs have been filed in different States which would*

indicate a well entrenched inter-state network of child trafficking. There are people who are tasked to identify vulnerable children and to arrange for their trafficking and eventual exploitation. The picture given in the Writ Petition raises serious issues.

4. The Ministry of Home Affairs, Government of India had filed an affidavit on 23.09.2024. The same is taken on record. The affidavit indicates the advisories issued by the Ministry of Home Affairs to all the States and the Union Territories on 25.06.2013 to address the 3 specific aspects of trafficking i.e., prevention, protection and prosecution. Special financial assistance is also provided by the Union Government to the States/Union Territories, for upgrading/setting up of the Anti-Human Trafficking Units covering all the districts in the country. Coordination with all the stakeholders on regular basis is also mentioned in the counter affidavit. In fact, a national level communication platform called the Crime Multi Agency Centre (Cri-MAC) was launched in the year 2020 which facilitates dissemination of information, inter alia, about child trafficking crimes, on real time basis.

5. At this point, the results of the coordinated efforts made by the Union Home Ministry with the States and the Union Territories are not before us. The Union of India should therefore coordinate with all the stakeholders, collect and collate data on the issues noted hereunder and also file the report before this Court:

(i) How many children missing cases have been registered in each District/State since 2020 i.e. when the Cri-MAC was launched?

(ii) From the registered cases, how many children have been recovered within the stipulated period of 4 months and how many are yet to be recovered?

(iii) Whether a functional Anti-Human Trafficking Units in each district is established and if so (number of cases entrusted to the respective Anti-Human Trafficking Units).

(iv) The powers conferred on the Anti-Human Trafficking Units under applicable laws.

(v) The number of pending prosecutions relating to child trafficking cases in each District/State.

(vi) Year-wise data be provided including the steps the respective States intend to take in delayed cases of investigation or non-recovery of the missing child.

6. The learned ASG will file a report as above in six weeks. List after six weeks."

84. It goes without saying that it is an important Writ Petition filed under Article 32 of the Constitution. It raises important issues as is evident from the order passed by this Court referred to above.

85. The Registry shall notify Writ Petition (Crl.) No. 43 of 2024 before the appropriate court after obtaining orders from the Hon'ble Chief Justice of India.

86. It is needless to clarify that the observations made by this Court are *prima facie* in nature and not expressions of any final opinion. The guilt or innocence of the accused shall be determined by the trial court strictly on the basis of the evidence, direct or indirect, that may come on record during the course of the trial. The trial court shall not be influenced in any manner by any of the observations made by this Court.

87. Registry is directed to forward one copy each of this judgment to all the High Courts and one copy each to all the State Governments. So far as the State Governments are concerned, one copy each of this judgment shall be forwarded to the Principal Secretary, Ministry of Home Affairs and Principal Secretary, Ministry of Women and Child Development respectively.

88. Registry shall notify this matter once again in the month of October, 2025 to report compliance of our directions.

89. We request the Police Officer in-charge of the investigation of the above incident of child trafficking as reported by TOI to personally remain present before this Court on Monday 21.04.2025 so that we can gather some further information as regards the action plan the Police proposes to take against such gangs operating within and outside Delhi. Registry to inform the officer concerned accordingly at the earliest.

90. We want to convey a message to one & all more particularly the parents across the country that they should remain extremely vigilant and careful with their children. A slight carelessness or negligence or laxity on their part may prove to be extremely costly. The pain and agony which any parents may have to face when the child dies is different from the pain and agony that the parents may have to face when they lose their children

to such gangs engaged in trafficking. When the child dies, the parents may with passage of time resign to the will of the Almighty but when the child is lost and not found they have to suffer the pain and agony for the rest of their life. It is worst than death. Therefore, we humbly urge to one and all to remain very cautious and vigilant.

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.

92. Pending applications if any stand disposed of.

..... J.
(J.B. Pardiwala)

..... J.
(R. Mahadevan)

New Delhi;
15th April, 2025