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MCRC-29110-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

ON THE 16th OF JULY, 2026

MISC. CRIMINAL CASE No. 29110 of 2026

SMT. RUBINA

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri Chinmay Kalgonkar - Advocate for the applicant.

Shri Sunit Kapoor - GA for the State.

Shri Manish Gadkar- Advocate for the Objector.

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ORDER

This is first bail application filed by the applicant- *RUBINA* under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail relating to Crime No.194/2026 registered at Police Station- Azad nagar District-Indore (M.P.) for the offence punishable under sections 143(4) & 3(5) of the BNS, 2023 and section 81 of the Juvenile Justice (Care & Protection of Children) Act, 2015. The applicant is in custody since 05.04.2026.

2. Prosecution story in brief is that a woman, namely 'H', already had two children and became pregnant for the third time. Owing to financial and family constraints, 'H' was not willing to continue the pregnancy and approached a doctor for medical termination of the pregnancy. However, the doctor declined to perform the termination considering the poor health



condition of 'H'. Thereafter, 'H' became very upset and started weeping. At that time, a lady named Sonu enquired about the reason for her distress. 'H' disclosed her difficulty and informed Sonu that she was unable to maintain a third child. Sonu, who introduced herself as an ASHA Karyakarta, suggested that 'H' should continue the pregnancy and give birth to the child. She further stated that she knew a family that had no issues for the last twenty years and assured 'H' that she would arrange a suitable family for the adoption of the child after birth. It is further alleged, is that acting upon the assurance given by Sonu, 'H' continued with the pregnancy. When labour pains commenced, 'H' contacted Sonu, who advised her to get admitted to a private hospital, assuring her that all medical expenses would be borne by the family willing to adopt the child. On 31.03.2026 at about 10:59 p.m., 'H' delivered a female child. After delivery, 'H' was discharged from the hospital, and the entire medical expenses were allegedly borne by Sonu and another woman who had accompanied Sonu to the hospital. Thereafter, Sonu, along with her husband, took custody of the newborn baby from 'H', assuring her that the child would be given in adoption to a respectable and deserving family. Sonu further assured 'H' that she would make a video call to 'H' at the time of handing over the child to the adoptive family so that 'H' could satisfy herself that the child was being given to a good family. It is further alleged that Sonu obtained the signatures of 'H' on a blank stamp paper on the pretext of completing the adoption formalities. However, no video call was made for the next two to three days. Consequently, 'H' became suspicious and demanded that Sonu return her child. Thereafter, Sonu



allegedly informed 'H' that the child had already been handed over to the present applicant and her daughter. Alleging that Sonu and her husband had sold her newborn baby to the present applicant for monetary consideration, 'H' lodged a complaint with the police. On the basis of the said complaint, the present crime was registered against the applicant and other accused persons, and during the course of investigation, the applicant was apprehended.

3. The applicant preferred an application for regular bail before the learned Trial Court. However, the learned Trial Court rejected the bail application primarily on the ground that, in her statement recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 'H' alleged that the present applicant was a prostitute and had demanded procurement of the newborn child. Relying upon the said allegations, the learned Trial Court observed that there were sufficient grounds to attract the offence of trafficking under Section 143 of the Bharatiya Nyaya Sanhita, 2023 and therefore, held that the applicant was not entitled to be released on bail. Being aggrieved by order of the trial court, applicant approached this court on the ground that there is no financial link that applicant of commercially purchase. On the contrary, the record shows that expenses of the complainant's private hospital delivery were borne by the family arranging the adoption a circumstance consistent with an intention to adopt, and not a commercial intention to buy. No material on record suggest that prior meeting between applicant and co-accused persons. The child was recovered within 10 days and handed over to her mother. The material on record shows



that primary and active role in the alleged removal of the child from the hospital and the procurement of her signature on the stamp paper is attributable exclusively to co-accused Sonu and Bhima Pawar. The applicant is, at best, a recipient of the child through an intermediary and is not shown to be an active participant in any organised arrangement or conspiracy. It is argued that in this case "H", who herself was determined to eliminate the living birth of the child and when she could not succeed then to get rid of the child, she handed over the child to others is now posing herself a victim and is blaming to the persons who ensured that new born child could survive and extended affection. The act may not be in conformity with the adoption procedure but violation cannot be attributed alone to other parties especially the present applicant. Posing herself to be victim is more responsible to expose the new born baby.

4. Counsel for the State opposed the prayer for grant of bail to the applicant.

5. Counsel appeared for the objector "H" also opposes the prayer of the applicant.

6. Perused the material collected during the investigation and final report of enquiry mentions that applicant was involved in active on trafficking of that was alleged by the "H" Statement recorded under section 183 of the BNSS, 2023 and made basis for rejection of the application by the trial court. On the contrary the material has been collected to the effect that daughter of the present applicant have no issues and child was arranged only for the daughter of the applicant. Accordingly, the arguments of the counsel



have substance that the essential ingredients of the expression 'exploitation', as defined in Explanation 1 appended to Section 143 of the Bharatiya Nyaya Sanhita, 2023, are not attracted to the facts of the present case and further that Section 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015, is attracted then punishment may be extended for a term of 5 years only. Hence the proviso of the section does not apply in the present case.

7. In view of the aforesaid, considering the facts and circumstances of the case and the arguments advanced by the counsel for the parties, without commenting on the merits of the case, the application is **allowed**.

8. It is directed that the applicant be released on bail upon her furnishing personal bond in the sum of Rs.50,000/- (**Rupees Fifty Thousand only**) **with one solvent surety** to the satisfaction of the concerned trial Court for her appearance before the trial Court on all such dates as may be fixed in this behalf by the trial Court during pendency of the trial. It is further directed that applicant shall comply with the provisions of section 480 (3) of Bharatiya Nagarik Suraksha Sanhita, 2023.

9. M.Cr.C. stands disposed of, accordingly.

C.c. as per rules.

(GAJENDRA SINGH)
JUDGE