



2025:AHC:196819

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 35862 of 2025

Reserved on: 22.09.2025

Delivered on: 07.10.2025

Seema Beg

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Sr. Advocate, Zeeshan Mazhar
Counsel for Opposite Party(s)	:	G.A.

Court No. - 73

HON'BLE SAMEER JAIN, J.

1. At the very outset, learned counsel for applicant and learned AAG for the State submit, as entire relevant materials have already been filed along with the instant application, therefore, instant application may be heard and disposed off finally.
2. Heard Sri G.S. Chaturvedi, learned Senior Advocate assisted by Sri Zeeshan Mazhar and Ms. Saumya Chaturvedi, learned counsels for the applicant and Sri Manish Goyal, learned Additional Advocate General assisted by Sri Arvind Kumar, learned Additional Government Advocate for the State.
3. The instant application has been filed by the applicant with a prayer to quash the cognizance order dated 28.11.2024 as well as charge-sheet dated 21.11.2024, under Sections 143(4), 143(5) BNS and 79 Juvenile Justice (Care and Protection) Act, 2015 along with Section 4 and 16 of Bonded Labour System (Abolition) Act, 1976 as well as entire proceedings of Session Trial No. 496 of 2025 (State Vs. Seema Beg) arising out of Case Crime No. 185 of 2024, Police Station Bhadohi pending in the court of Additional Sessions Judge 1st, Bhadohi Gyanpur.

Factual Matrix of the case:

4. FIR of the present case was lodged on 13.09.2024 against applicant and her husband i.e. co-accused Zahid Jamal Beg under Sections 143(4), 143(5) BNS, 79 Juvenile Justice (Care and Protection) Act, 2015 and Section 4 and 16 of Bonded Labour System (Abolition) Act, 1976.
5. According to the FIR, on 09.09.2024 in the house of applicant and her husband a minor girl was found dead under suspicious circumstances and during inquiry it was revealed that in the house of applicant and her husband one another minor girl is also maid servant and thereafter on 10.09.2024 District Magistrate concerned directed for necessary action with regard to said minor girl and on the direction when concerned

officers arrived on 10.09.2024 in the evening at the house of applicant and her husband then said minor girl aged about 15 years was found working as domestic helper.

6. It is further mentioned in the FIR that thereafter the said girl was taken to police station and was produced before Juvenile Welfare Committee and after the order of committee, she was sent to protection home. It is further mentioned in the FIR that after the inquiry from the girl it was found that she was working in the house of applicant and her husband for last two years as domestic helper. She also informed that along with her another minor girl (who has died) also worked.

7. As per FIR, for the services of said minor girl no consideration was being given by the applicant and her husband to her. It was also revealed that during work sometime she was also scolded and beaten.

8. According to the FIR, about 2-3 days before the deceased girl informed the minor maid servant that she wanted to escape from the house of applicant and her husband. During inquiry said minor girl also informed that for the household work deceased girl received Rs. 2,000/- per month which was taken by her mother.

9. As per FIR, the conduct of the applicant and her husband was against the provisions of Juvenile Justice (Care and Protection) Act, 2015 and they also violated the provisions of Bonded Labour Act and due to the working condition the deceased maid servant committed suicide in the house of applicant and co-accused Zahid Jamal Beg i.e. husband of the applicant.

10. After registration of the FIR investigation was conducted and after investigation charge-sheet has been filed against applicant and her husband and thereafter court concerned has taken the cognizance and issued summons. Hence the instant application.

Arguments advanced on behalf of applicant:

11. Learned Senior Advocate appearing on behalf of applicant submits, on the basis of false and vague allegations applicant along with her husband has been made accused in the present matter.

12. He further submits, however, charge-sheet in the present matter has been filed against the applicant for offences under Sections 143(4), 143(5) BNS, 79 Juvenile Justice (Care and Protection) Act, 2015 and Section 4 and 16 of Bonded Labour System (Abolition) Act, 1976 but prima facie alleged offences are not made out against her. He further submits, it is a simple case relating to the working conditions of domestic helpers but in spite of that applicant has been made accused even for offence of human trafficking.

13. He further submits, with regard to the deceased maid servant who committed suicide in the house of applicant, a separate FIR under Section 108 BNS has been lodged.

14. He further submits, the allegations against the applicant in the present matter are that she along with her husband employed the minor girls below 18 years of age and

against their services they were not being properly paid and even working conditions were not conducive and they were harassed too but these allegations are totally false.

15. He further submits, however, after investigation charge-sheet has been filed against the applicant but even during investigation Investigating Officer could not collect any cogent and admissible evidence which can show that applicant and her husband committed the alleged offences.

16. He further submits, offence under Section 143 B.N.S. relates to human trafficking and to constitute an offence under Section 143 B.N.S. it is necessary that there must be some evidence of exploitation.

17. He further submits, from the statements of victim i.e. minor girl recorded during investigation and even from her statement recorded before the Juvenile Justice Committee it could not be reflected that she was being exploited in the house of applicant.

18. He further submits, even as per Section 143 B.N.S. a person must be recruited for exploitation therefore if a person gives employment to a girl for domestic help then it cannot be said that for the purpose of exploitation she was employed/recruited.

19. He further submits, however, victim was below 17 years of age but neither from her statements nor from the statements of her family members it could be reflected that against their wishes she was employed by the applicant and her husband.

20. He further submits, from the statements of prosecution witnesses including the family members of the victim and deceased girl it reflects, applicant never forcibly employed them. Rather it reflects, with their consent they started working in her house as maid servants.

21. He further submits, from the statement of the aunt of victim it reflects, after the death of her parents she started living with her and she herself has taken her to the house of applicant for employment as domestic helper and from the statements of prosecution witnesses it could not be reflected that either victim or deceased maid servant could ever be exploited.

22. He next submits, by any stretch of imagination it cannot be said that a person who gives employment to a girl for domestic help has committed offence of human trafficking if there is no allegation that the girl was employed for exploitation. He further submits, in the present matter there is no evidence which can suggest that victims were employed for exploitation.

23. He further submits, from the entire material available on record no offence under Section 143 BNS is made out against the applicant. He placed reliance in the case of **Ajay Malik Vs. State of Uttarakhand 2025 INSC 118.**

24. He further submits, as far as offence relates to Juvenile Justice Act is concerned, to constitute an offence under Section 79 Juvenile Justice Act it is necessary that a child must keep in bondage or employer withholds her earnings or uses his/her earnings for his own purpose but in the present case there is no allegation that applicant kept the victims in bondage and there is also neither any allegation nor evidence that she

withhold their earnings or use their earning for her own purpose and therefore offence under Section 79 Juvenile Justice Act is also not made out against the applicant.

25. He further submits, charge-sheet has also been filed against applicant under Section 4/16 Bonded Labour Act and Section 16 prescribed punishment for enforcement of Bonded Labour but according to Section 15 of Bonded Labour Act, who were after the commencement of Bonded Labour Act compels any person to render any Bonded Labour shall be punishable under Section 16 and in the present case there is no allegation that applicant either compel the victims to render any Bonded labour, therefore, even offence under Section 16 Bonded labour is also not made out against applicant.

26. He further submits, as from the entire material available on record no offence under Section 143 B.N.S., 79 Juvenile Justice Act and 4/16 Bonded labour Act is made out against the applicant, therefore, charge-sheet filed against the applicant and proceedings pending against her are bad and both are liable to be quashed.

Arguments advanced on behalf of State:

27. Per contra, learned Additional Advocate General opposed the prayer and submits, from perusal of the entire material available on record prima facie it appears, applicant committed the offences under Sections 143 B.N.S., 79 Juvenile Justice Act and 16 Bonded labour Act.

28. He further submits, from the entire material available on record it is crystal clear that both the victim including deceased were minor and in spite of that they were employed by the applicant and her husband.

29. He further submits, from the statements of the victim and parents of deceased girl and even from the statements of other prosecution witnesses including family members of victim it reflect, in the house of applicant both the victims were being tortured and as for their services sufficient consideration was not being paid to them, therefore, it cannot be said that they have not been exploited.

30. He further submits, Article 23 of Constitution of India prohibits human trafficking, begar, and other forms of forced labour and any contravention of this provisions is punishable.

31. He further submits, from the entire material available on record, it is apparent that there is ample evidence of Begar against applicant as victims were not being sufficiently paid by applicant and her husband and therefore applicant infringed the provision of Article 23 which itself is punishable.

32. He further submits, even as per Section 143 B.N.S. exploitation is sufficient to attract it and therefore it cannot be said that offence under Section 143 B.N.S. is not made out against the applicant as from the record it reflects, applicant and her husband exploited both the victims who were minor girls. He next submits, even due to their exploitation one victim committed suicide in the house of applicant.

33. He further submits, forced labour is prohibited even as per international convention and India is one of the signatory to international convention and forced

labour. He next argued, from perusal of the material available on record prima facie it appears to be a case of forced labour and Begar.

34. He placed reliance on following judgements:-

1. People's Union for Democratic Rights Vs. Union of India (1982) 3 SCC 235
2. Usha Pandey Vs. State of U.P. 2008 SCC OnLine All 693
3. Chandrawati Devi Vs. State of U.P. 2020 SCC OnLine All 150
4. S. Vasudbvan Vs. S.D. Mital 1961 SCC OnLine Bom 85
5. All India Judges Association Vs. Union of India (2010) 14 SCC 713
6. State of U.P. Vs. Association of Retired Supreme Court and High Court Judges (2024) 3 SCC 1
7. Public Union for Civil Liberties Vs. State of Tamil Nadu (2013) 1 SCC 585
8. Pinki Vs. State of U.P. (2025) 7 SCC 314
9. Sanjit Roy Vs. State of Rajasthan (1983) 1 SCC 525

35. He further submits, considering the material available on record and provisions of Article 23 and international convention at this stage, it cannot be said that applicant did not commit the alleged offences.

36. He further submits, therefore, instant application filed by the applicant is devoid of merits and is liable to be dismissed.

Conclusion and analysis:

37. By way of the instant application applicant challenged the cognizance order as well as charge-sheet filed against her and entire proceedings pending against her relating to offences under Sections 143(4), 143(5) BNS, 79 Juvenile Justice (Care and Protection) Act, 2015 and Section 4/16 of Bonded Labour System (Abolition) Act, 1976

38. The law with regard to quashing the charge-sheet and proceedings pending against an accused is settled. The three Judges Bench of the Apex Court in the case of **R.P. Kapur Vs. State of Punjab AIR 1960 SC 866** and two judges Bench in the case of **State of Haryana Vs. Bhajan Lal 1992 SCC (Cr.) 426** categorically observed that if from the perusal of material available on record collected by the Investigating Officer during investigation prima facie alleged offences are not made out against an accused then charge-sheet filed against him and proceedings pending against him can be quashed.

39. In the present matter charge-sheet has been filed against the applicant for offences under Section 143 B.N.S., Section 79 Juvenile Justice Act and 4/16 Bonded Labour Act therefore it is to analyse whether from the material collected by the Investigating Officer during investigation prima facie these offences are made out against the applicant or not.

40. The offence under Section 143 B.N.S. is related to human trafficking which read as under:

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

(a) using threats; or

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

(c) by abduction; or

(d) by practicing fraud, or deception; or

(e) by abuse of power; or

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

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

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

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

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

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

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

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

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

41. Therefore, to constitute an offence under section 143 BNS it is necessary that a person must be recruited for the purpose of exploitation and such recruitment must be either by using threat or using force or by abduction or practising fraud or abuse of power or inducement. As per Section 143(1) (f) BNS inducement includes the giving or receiving of payments or benefits in order to achieve the consent of any person having control over the person recruited. As per explanation 1 of Section 143(1)(f) B.N.S. 'exploitation' shall also include any act of physical exploitation and according to explanation 2 of Section 143(1)(f) BNS consent of victim is immaterial for offence of trafficking.

42. In the present matter, however it reflects, both the victim were minor girls and they were employed by applicant for her domestic help and deceased victim was receiving only Rs. 1,000/- which her mother used to receive and another victim was not getting any monthly monetary remuneration and according to her and her family members applicant and her husband i.e. co-accused Zahid Jamal Beg gave assurance to bear expenses of her marriage and they also bore the expenses of the marriage of her elder sister but from their statements and other material available on record it could not be reflected that both the victims were employed by applicant for exploitation.

43. Further, even there is no evidence that both the victims were employed by using threat, force, abduction, fraud, abuse of power or inducement. There is also no evidence that at the time of giving employment/recruitment the consent of family members of victims, who were minor were obtained by making any inducement by giving payment or benefit.

44. Therefore, considering above facts in view of this Court, prima facie, offence under Section 143 BNS is not made out against the applicant.

45. Further, however, learned AAG in the light of Article 23 of Constitution of India tried to convince the Court by arguing that from the material available on record it reflects, by giving only Rs. 1,000/- to deceased victim applicant has committed an offence as it is prima facie a case of Begar but merely on the basis of Article 23 of Constitution of India a person on the basis of allegation of Begar cannot be either prosecuted or convicted unless and until in this regard there is any specific provision under any law in force. Offence under Section 143 BNS does not include Begar and it is only for trafficking of human beings and as already observed in view of this Court from the material available on record prima facie offence under Section 143 BNS is not made out against applicant.

46. As far as offence under Section 79 Juvenile Justice (Care and Protection of Children) Act, 2015 is concerned, according to Section 79 Juvenile Justice (Care and Protection of Children) Act, 2015 if a person engages a child and keeps him in bondage for the purpose of employment or withholds his earnings or uses such earnings for his own purposes then he will be punishable for offence under Section 79 Juvenile Justice Act.

47. In the present matter, there is no allegation that the alleged victims were kept by the applicant in bondage and there is also no evidence that applicant withhold their earnings or used their earnings for her own purpose. Therefore, prima facie even offence under Section 79 Juvenile Justice (Care and Protection of Children) Act, 2015 is also not made out against the applicant.

48. Further, however, charge-sheet has also been filed against the applicant for offence under Section 16 of Bondage Labour Act. Section 16 Bondage Labour Act states, whoever after the commencement of Bondage Labour Act compels any person to render any Bondage Labour shall be punishable under Section 16 of the Act.

49. In the present matter, there is neither any evidence nor allegation that applicant compelled the victims to render any Bondage Labour and therefore, offence under the provisions of Bondage Labour Act is also not made out against the applicant.

50. Therefore, from the discussion made above, it is apparent that from the material available on record, prima facie, no offence under Section 143 BNS, 79 Juvenile Justice (Care and Protection of Children) Act, 2015 and 4/16 Bondage Labour Act is made out against the applicant.

51. Therefore, in view of the law laid down by the Apex Court in the case of R.P. Kapoor (supra) and Bhajan Lal (supra) charge-sheet filed against the applicant and

proceedings pending against her are bad and both are liable to be quashed and accordingly, both are hereby quashed.

52. The instant application filed by the applicant stands allowed.

November 7, 2025
AK Pandey/Ankita

(Sameer Jain,J.)