

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1496 OF 2023

Sachin Daulat Aher
Age: 34 years, Occu: Labour,
R/o. Shirdi, Tq. Rahata,
Dist. Ahmednagar

... Applicant

Versus

1. State of Maharashtra
Through Shirdi Police Station
Dist. Ahmednagar

2. XYZ

3. Sushma Vasant Jadhav
Age: 28 years, Occu: Service [Police]
At Newasa Police Station, Newasa
Dist. Ahmednagar

... Respondents

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Mr. M. R. Malpani, Advocate for the Applicant
Mr. S. P. Deshmukh, APP for the Respondent/State

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CORAM: S. G. CHAPALGAONKAR, J.

Reserved on : 15.09.2023

Pronounced on : 09.10.2023

FINAL ORDER:

1. The applicant seeks regular bail in connection with Crime No.322/2023 dated 06/05/2023 registered with Shirdi Police Station, District Ahmednagar for the offences punishable under Sections 366 (A)(B), 370, 372, 373, 376 and 328 of the Indian Penal Code [for short 'IPC'], Sections 3, 4, 5, 7 and 8 of the Immoral Traffic Prevention Act, 1956 [for short 'PITA Act'] and Section 4, 8

and 12 of the Protection of Children from Sexual Offences Act, 2012 [for short 'POCSO Act'].

2. The investigation was set in motion on the basis of information given by Smt. Sushma Vasant Jadhav, who is a Lady Police Constable attached to Newasa Police Station. She states that, on 05/05/2023, the Police Inspector, namely, Rajendra Ingle called her in his cabin along with other police officers and informed them that, directions are received from Sub-Divisional Police Officer [SDPO] - Sandip Mitke to initiate action against on going prostitution at S.P. lodge. Accordingly, a raid was arranged with panch witnesses and decoy customer. During such operation, it is revealed that, the accused, namely, Sachin Daulat Aher [present applicant] and Suraj Daulat Latke are running a brothel and victimized the women and minor victim for prostitution. The decoy customer had paid currency notes to the accused persons. Those notes are seized from accused - Suraj. The incriminating articles like condom packets; mobile phones etc. were also seized under the panchnama. On the basis of the aforesaid information, the crime had been registered for the offences punishable under Sections 366 (A) and 370 of IPC along with Sections 3, 4, 5, 7 and 8 of PITA Act. The applicant has been arrested on 06/05/2023.
3. The investigation is progressed in pursuance of the aforesaid crime. The statement of the minor victim has been recorded under Sections 161 as well as 164 of the Code of Criminal Procedure [for short 'Cr.P.C.']. During further investigation, it is revealed that, the minor victim is brought from the foreign country i.e. Bangladesh and she has been forced to engage in the prostitution. Finally, charge-

sheet came to be filed against in all eleven accused persons, including the present applicant for the aforesaid offences. Thereafter, the applicant moved an application [Exhibit-14] for grant of regular bail in Special Case No.32/2023 before the learned Sessions Judge, Kopergaon, which came to be rejected vide order dated 02/08/2023.

4. Mr. Malpani, learned Advocate appearing for the applicant would submit that, the applicant has been falsely implicated in the subject crime. He is not named by the victim in her statement. As per statement of police officers, he has been implicated in the crime. The applicant is not identified by the victim. The decoy customer allegedly paid the amount to the persons on the counter of S.P. lodge. The amount is recovered from the accused – Suraj. There is nothing to indicate the active participation of the applicant in the management and control of S.P. lodge. Learned Advocate for the applicant further submits that even taking the allegation as it is, at the most, the applicant can be prosecuted for the offences punishable under Sections 3, 4 and 5 of PITA Act. There are no attributions against him regarding the commission of major offences. He would submit that the applicant has been arrested on 06/05/2023 and he is behind the bars for more than five months. Further detention of the applicant would not be necessary. He urges to release the applicant on bail.
5. Mr. Deshmukh, learned APP strongly opposes the application. He would submit that, the police received the information that the brothel runs at S.P. lodge. Accordingly, a raid was arranged. The applicant was found at the counter of the lodge. He would also

submit that, during the investigation, a lease agreement is collected from accused – Ajaz Ayaz Khan Pathan, who is owner of the premises, which shows that, the applicant is a lease holder of lodge building. He would therefore submit that, the active participation of the applicant in the commission of offence is writ large. Hence, he urges to reject the application.

6. Having considered the submissions advanced, apparently, the applicant is named in the FIR. However it is because, he was found on the counter of the lodge when the raid was conducted. The currency notes which were parted through decoy customer – Sagar Pawal have been seized from the accused – Suraj. The applicant is alleged to be the person in possession and control of S.P. lodge. A copy of lease agreement is relied, which shows that, there was a registered lease deed between the applicant and Mr. Ajaz Pathan i.e. owner the building of S.P. lodge. The perusal of the agreement shows that, it was executed on 15/10/2021 for the period of eleven months only and the possession was to be handed over on expiry of the lease period. There is nothing on record to show that the agreement was continued further. The statement of the applicant is recorded during the course of investigation, wherein, he stated that, the S.P. lodge has been leased out by the owner to Sachin Latke. The alleged incident is dated 05/05/2023 i.e. after more seven months from the date of expiry of the lease period. Although the investigation papers show that the applicant was present on the spot at the time of raid, no other evidence is made part of charge-sheet to show the involvement of the applicant in the offence. Neither the victim named the applicant nor has she identified him. Even assuming that the applicant was at counter or he was in

possession of the property, at the most, the offences under the provisions of PITA Act may attract against the applicant. Nothing is brought on record to show that the applicant knew that the victim is a minor and he engaged her in the prostitution. The applicant is behind the bars since 06/05/2023. The investigation is completed and charge-sheet is also filed. The trial would take its own course. The further detention of the applicant is not necessary. The interest of the prosecution can be secured by imposing certain conditions. Hence, the following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant, namely, Sachin Daulat Aher be released on bail in connection with Crime No.322/2023 dated 06/05/2023 registered with Shirdi Police Station, District Ahmednagar for the offences punishable under Sections 366 (A)(B), 370, 372, 373, 376 and 328 of IPC, Sections 3, 4, 5, 7 and 8 of PITA Act and Section 4, 8 and 12 of POCSO Act on furnishing P.B. and S.B. of Rs.50,000/- [Rs. Fifty Thousand Only] on the following conditions;
 - (a) The applicant shall not tamper with the prosecution evidence/ witnesses in any manner.
 - (b) He shall not indulge in the similar offences.
 - (c) He shall attend each and every effective dates before the Trial Court.
 - (d) He shall furnish the details of his residential address and contact numbers to the concerned police station and update the same time to time.
- (iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE