

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1523 OF 2023**

1. Vaibhav S/o Deepak Patil,
Age- 24 years, Occu. - Labour.
2. Sonakshi Gopal Das @ Sonakshi Vaibhav Patil,
Age- 28 years, Occu.- Household.

Both R/o Solapur Road, Near Ambedkar Ground
Tembhurni, Solapur. ..Applicants

Versus

1. The State of Maharashtra
Shirdi Police Station, Shridi,
Tq. Rahata, Dist. Ahmednagar.
2. X.Y.Z. ..Respondents

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Mr. A. S. Gandhi, Advocate for the Applicant.
Mr. S. P. Deshmukh, APP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 15th SEPTEMBER, 2023.
PRONOUNCED ON : 09th OCTOBER, 2023.

ORDER:-

1. The applicant seeks regular bail in connection with Crime No.322/2023 dated 06.05.2023 registered with Shirdi Police Station, Dist. Ahmednagar for the offences punishable under Sections 366 (A), 370, 366 (B), 372, 373, 376, 328 of the Indian Penal Code and Sections 3, 4, 5, 7 and 8 of the Prevention of Immoral Trafficking Act, 1956 (for short 'PITA, 1956') as well as Sections 4, 8 and 12 of the POCSO Act.
2. The investigation was set in motion on the basis of the information given by Smt. Sushma Vasant Jadhav, serving as Police Constable at Newasa. She reports that the Police

Inspector, Shri. Rajendra Ingale, in pursuance of directions of the S.D.P.O., Shri. Sandeep Mitke informed that prostitution is going on at SP Lodge within the jurisdiction of the Shirdi Police Station and instructed to take immediate action. In view of the aforesaid instruction, raid was arranged. The team of police officers, panch and decoy customer was formed. They raided at SP Lodge after signal from decoy customer. Accused Sachin Aher and Suraj Latke were found at the counter. They had received the amount offered by the decoy customer. On further search of the premises, three ladies including minor victim were found engaged in the prostitution. Accordingly, FIR was registered for the offences punishable under Sections 366(A), 370 of the Indian Penal Code and Sections 3, 4, 5, 7 and 8 of the PITA. The accused were arrested on the spot.

3. The investigation progressed. The statement of the minor victim was recorded. She disclosed that she is brought from Bangladesh and forced to engage in prostitution. During further investigation, she narrated details of various places, where she was subjected to prostitution. The statement of the victim dated 29.05.2023 recorded under Section 164 of the Criminal Procedure Code before the learned Judicial Magistrate First Class, Rahata shows that from 09.11.2022 victim was made to travel at various places. Initially, she was brought to Bombay. Thereafter, on 08.01.2023 she was taken to Nashik, where she was victimized to the prostitution. Thereafter, accused Akash took her to the Jalgaon, Dhule, Aurangabad, Pune and Shirdi. However, statement sans the details of the persons, victimized her to the prostitution or the places. By way of supplementary charge-sheet the applicants have been added as accused. They have been arrested on 23.06.2023 and since then, they are behind

the bar. The investigation is completed and charge-sheet is filed. The applicants had filed the application seeking regular bail before the Sessions Judge in Special Case No.32/2023. However, application came to be rejected vide order dated 02.08.2023.

4. Mr. Gandhi, learned Advocate appearing for the applicants would submit that the applicants are not named in the FIR. Even the statement of the victim recorded under Section 164 of the Criminal Procedure Code does not record any specific allegation. It only mentions that the victim was brought to the Pune, where she stayed with the applicants for a period of one month. The statement simply discloses the name of one Sonakshi without further details. The test identification parade is not carried. The investigation in the matter is complete. The charge-sheet is filed. The applicants are behind the bar from 20.06.2023. Hence, he urges to release the applicants on bail.

5. Mr. Deshmukh, the learned APP opposes the prayer for grant of bail. He would submit that the statement of the victim recorded on 16.05.2023 specifically names the applicants. He would further submit that the victim identified the applicants at the time of recording spot panchanama at the flat. He would further submit that the statement of the owner of the flat is recorded, who confirmed that the applicants had hired the said flat for their own residence. He would, therefore, submit that the complicity of the applicants in commission of the offence can be gathered from the aforesaid evidence. Hence, he urges to reject the application for grant of bail.

6. Having considered the submissions advanced, apparently the FIR was lodged on the basis of the information of police officer that upon raid conducted at SP Lodge at Shirdi, two persons were found on the counter. They accepted the money for

providing service of the prostitute. During the search of the premises, three ladies including minor victim were found engaged in prostitution. Initially, two accused persons named in the FIR were arrested and the offence under Sections 366(A), 370 of the Indian Penal Code as well as Section 3, 4, 5, 7 and 8 of the PITA was registered. Subsequently, during the course of investigation, the statement of the minor victim was recorded under Section 161 of the Criminal Procedure Code on 16.05.2023. Thereafter, her statement dated 29.05.2023 under Section 164 of the Criminal Procedure Code has been recorded before the Judicial Magistrate First Class, Rahata. The statement discloses that the victim was brought from Bangladesh. Initially, she was taken to Bombay and thereafter driven to various places in the State of Maharashtra and engaged in prostitution.

7. The allegation against the applicants is that the accused Akash took victim to Pune, where she resided with the applicants/accused. The minute reading of the victim's statements under Section 161 and 164 nowhere suggests that she was engaged in prostitution at Pune or the applicants had forced her to engage in prostitution. Even, there is no allegation of financial gains to applicants through victims prostitution.

8. Although, the complicity of the applicants sought to be brought on record on the basis of the spot panchanama, wherein victim alleged to have identified them. Such evidence is not sufficient to bring home alleged charges. Second contention of the prosecution that the applicants were in the contact with the accused persons is not substantiated by the documentary evidence. Even, accepting the case of the prosecution the applicants can be attributed with the offence under PITA. There is nothing to bring home or attribute major offences incorporated

in the charge-sheet. The investigation in the matter is complete. The charge-sheet is filed. The applicants are behind the bar for more than three months. Further detention of the applicants would not be necessary. Hence, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, Vaibhav Deepak Patil and Sonakshi Gopal Das @ Sonakshi Vaibhav Patil be released on bail in Crime No.322/2023 dated 06.05.2023 registered with Shirdi Police Station, Dist. Ahmednagar for the offences punishable under Sections 366 (A), 370, 366 (B), 372, 373, 376, 328 of the Indian Penal Code and Sections 3, 4, 5, 7 and 8 of the Prevention of Immoral Trafficking Act, 1956 as well as Sections 4, 8 and 12 of the POCSO Act on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) on following condition:
 - a. The applicants shall not tamper with the prosecution evidence in any manner.
 - b. The applicants shall attend each and every effective date of the trial before the Trial Court.
 - c. The applicants shall furnish detailed address and contact numbers with the concerned Court, which shall be updated time to time.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE