

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.293 OF 2023
(Umesh s/o Dinkar Maske Vs. State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.S. Mardikar, Senior Advocate a/w Shri VR. Deshpande,
Advocate and Shri D.P. Singh, Advocate for the applicant.
Shri A.M. Kadukar, APP for the State.
Shri A.G. Hunge, Advocate (appointed) for the non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 12, 2023.

Heard.

2. Present application is filed by the applicant under Section 439 of the Code of Criminal Procedure in connection with Crime No.763/2021 registered at police station Khadan, District Akola for the offence punishable under Sections 3, 4, 5, 9 of the Immoral Trafficking (Prevention) Act, 1959 and Section 366-A, 370, 370-A, 376(3) of the Indian Penal Code and Section 4, 5(l) and 6 of the Protection of Children from Sexual Offences Act, 2012.

3. The applicant is arrested on 08/12/2022 by Khadan, Akola police station for the alleged offences.

4. As per the allegation in the First Information Report lodged by Police Inspector – Vilas Ramesh Patil that he received a secret information that in Flat No.204 in Sai Residency, Malkapur, District Akola one woman namely Rushali Girhe and present applicant are running the

brothel and doing the prostitution business. Accordingly, he conducted the raid. During the raid they have sent the dummy customer to the said brothel and it revealed to them during the raid that two girls were sitting in rooms and there was one male person also. It further revealed to them that they were accepting Rs.2000/- from the male customers. Accordingly they have conducted the raid. During the raid, minor victim girl was found in one room and they also seized some incriminating articles. On the basis of said report, police have registered the offence against the present applicant and other co-accused.

5. As per the contention of the present applicant that he is falsely implicated in the alleged offence. In fact, he is not connected with the alleged crime. Now the investigation is completed and the charge-sheet is filed. His further custody is not required. He will abide by all the conditions imposed by this Court.

6. Said application is strongly opposed by the learned Additional Public Prosecutor for the State and learned Counsel for respondent No.2 – victim on the ground that the victim girl is subjected for sexual assault by compelling her for the prostitution. The applicant has obtained her nude photographs and blackmailed her.

7. Thus, *prima facie* material is sufficient to connect the present applicant with the alleged offence. Respondent No.2 also raised strong objection on the ground that on 17/06/2021 raid was conducted in view of secret information received by the police. As the

prostitution trafficking going on in the said flat of the applicant as well as the applicant has forced the victim girls into prostitution at his flat and during the said raid, raiding party has sent the dummy customer and two victim girls were also found at the time of raid. The victim was blackmailed by the present applicant by obtaining her nude photographs and compelled her to do the prostitution. Thus, prima facie material is against the present applicant, and therefore, application deserves to be rejected.

8. Heard learned Senior Counsel Shri Mardikar for the applicant. He invited my attention toward the previous reports lodged by the victim girl against other two persons namely one Mangesh @ Aniket Baban Bangar. As per her allegation in the said FIR that she got acquaintance with said Mangesh @ Aniket Bangar and Mangesh Bangar had subjected her for sexual assault. During the period from 28/05/2021 to 02/06/2021, she was along with him till 22/07/2021. While lodging the said report at Akola police station on 30/07/2021, she has not narrated about the alleged incident dated 17/06/2021. He submitted that it further reveals from the said FIR that since 28/05/2021 till 22/07/2021 she was along with said Mangesh @ Aniket Bangar went at Khamgaon Dhobi Khadan and returned on 22/07/2021. If this contention is accepted then it is difficult that she would have been present at the spot of incident on 17/06/2021. He further invited my attention towards

another report lodged by the victim against Vicky Ramesh Kadam and others wherein all the accused are acquitted from the charges. He submitted that *prima facie* material collected by the Investigating Officer during investigation falsifies the story of the Prosecution as well as the contention of the victim girl.

9. Now the investigation is completed and the charge-sheet is filed. Further custody of the applicant is not at all required and hence he be released on bail.

10. Said contention vehemently negated by the learned Additional Public Prosecutor and learned Counsel for respondent No.2. They submitted that *prima facie* material sufficiently shows that the applicant is involved in a prostitution business. During the investigation, statement of the two victims recorded which positively establishes the connection of the present applicant with the alleged offence and hence, bail application deserves to be rejected.

11. Heard both the sides and perused the investigation papers.

12. The crime is registered on the basis of report lodged by Police Inspector – Vilas Ramesh Patil. As per the recitals of the FIR on receipt of the secrete information he conducted the raid and two victims were found in the Flat bearing No.204 at Sai Residency, Malkapur, which is owned by the present applicant. The statements of the two victims are recorded by him. He also collected the

documents to show the ownership of the alleged spot of incident. The one victim who is major has not attributed any role to the present applicant during her statement. Her supplementary statement is also not recorded during the investigation by the Investigating Officer. She only narrates the role of the co-accused Rushali Girhe, who is already released on bail.

13. As per the statement of the victim girl, present applicant obtained her nude photographs and compelled her for prostitution. On the date of raid also she was found at the alleged spot of incident and her statement was recorded by the police. During investigation, the Investigating Officer also collected the earlier reports filed by the respondent No.2. On the basis of her report lodged by her on 30/07/2021 at Akola police station she was along with one Mangesh @ Aniket Baban Bangar from 28/05/2021 till 22/07/2021. If the contention of the said FIR is taken into consideration then it is difficult to accept that she was present at the alleged spot of incident on 17/06/2021. While releasing Mangesh @ Aniket Baban Bangar in Criminal Application No.525/2021, this Court has observed that the non-applicant is on the verge of majority and she submitted the affidavit that after attaining the age of majority she is ready to marry with the present applicant and admitted her love relationship with said Mangesh.

14. One more crime was registered on the basis of

her report against Vikcy Ramesh Kadam and others against whom also she has alleged the sexual assault at their hands. Admittedly, these factors are a matter of the evidence.

15. In the light of her FIR dated 30/07/2021 which shows that she was with one Mangesh @ Aniket Baban Bangar till 22/07/2021. Thus, from the investigation papers, it is difficult to accept that said victim i.e. respondent No.2 was present when the raid was conducted. If her statement is kept aside then only one statement is there of another victim who has not assigned any role to the present applicant.

16. Now the investigation is also completed and the charge-sheet is filed. Further custody of the present applicant is not at all required in the light of the above discussion. *Prima facie* case is made out by the present applicant to release him on bail by imposing certain conditions. Hence, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant Umesh s/o Dinkar Maske in the event of arrest in Crime No.763/2021 registered at police station Khadan, District Akola for the offence punishable under Sections 3, 4, 5, 9 of the Immoral Trafficking (Prevention) Act, 1959 and Section 366-A, 370, 370-A, 376(3) of the Indian Penal Code and Section 4, 5(l) and 6 of the Protection of

Children from Sexual Offences Act, 2012, be released on anticipatory bail on executing P.R. Bond in the sum of 30,000/- (Rs. Thirty thousand) with one surety in the like amount.

(iii) The applicant shall attend the concerned Police Station once in a week i.e. on every Monday between 10.00 a.m. to 1.00 p.m. till conclusion of the trial.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(v) The applicant shall not leave the jurisdiction of the Akola police station without prior permission of the Court.

17. The fees of Advocate (appointed) for the respondent No.2 is quantified as per rules.

18. The trial Court shall not be influenced by the observation of this Court at the time of trial.

(URMILA JOSHI-PHALKE, J.)