



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

37 BAIL APPLICATION NO. 505 OF 2024

1. Vaishali W/o Uttam Phatangare.
2. Deepak S/o Uttam Phatangare. ... Applicants

Versus

The State of Maharashtra. ... Respondent

...
Advocate for Applicant : Mr. K. N. Shermale.
APP for Respondent/State : Mr. Satish A. Gaikwad.
...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 15th April, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.36 of 2024, registered with Ghargaon Police Station, Taluka Sangamner, District Ahmednagar, for the offences punishable under Sections 370 read with 34 of the Indian Penal Code and under Sections 3, 4, 5, 7 and 8 of the Immoral Traffic (Prevention) Act, 1956.

3 It is averred in the report that applicant No.1 is running business of prostitution in her house. Therefore, the investigating

officer called the decoy customer and raid was effected on 6th February, 2024. Two women were found to the police while doing that business for the economic benefits of these applicants. Therefore, the report was lodged against them.

4 The learned counsel for applicants submitted that the applicants are falsely implicated in the crime. There is no *prima-facie* evidence against them. Legal requirements are not complied with. The applicants have roots in the society. It is lastly prayed to allow the application.

5 As far as criminal antecedents of the applicants are concerned, the learned counsel for applicants is relying upon the judgment of the Honourable Supreme Court in case of ***Prabhakar Tiwari Vs. State of U.P. & Anr.*** (Criminal Appeal Nos.152 and 153 of 2020) dated 24th January, 2020, in which the Honourable Supreme Court in paragraph 6 held as under:-

“6. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.”

6 The learned APP for the State strongly opposed the application and submitted that the applicants are involved in serious

crime. Earlier applicant No.1 has been prosecuted for similar nature of crime bearing Crime No.406 of 2022. She had committed breach of the conditions of bail granted to her. There is strong evidence against these applicants. The statements of witnesses show that the applicants are involved in such heinous crime. It is lastly prayed to reject the application.

7 Perused the papers of investigation, particularly, the report and the statements of witnesses. The applicants are involved in the serious crime. However, the practical investigation is over. The trial will take long period. The applicants have roots in the society. Though there are criminal antecedents, the application can be allowed in view of the law laid down by the Honourable Supreme Court in case of ***Prabhakar Tiwari*** cited (supra) on behalf of applicants. Considering all these aspects, the applicants are entitled for bail on the principle that bail is rule and jail is exception. The application, therefore, deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. Both these applicants in connection with Crime No.36 of 2024, registered with Ghargaon Police Station, Taluka Sangamner, District Ahmednagar, for the offences punishable under Sections 370 read with 34 of the Indian Penal Code and under Sections

3, 4, 5, 7 and 8 of the Immoral Traffic (Prevention) Act, 1956, be released on bail on furnishing personal bond of Rs.50,000/- each with surety of the like amount by each of them on following conditions:-

- a) The applicants shall not pressurize the prosecution witnesses, in any manner.
- b) The applicants shall not tamper with the prosecution evidence, in any manner.
- c) The applicants shall not indulge in such nature of crime again.

8 If any breach of the above conditions is noticed by the Trial Court, the Trial Court is at liberty to proceed further to cancel the bail of these applicants without reference to this Court.

[SANJAY A. DESHMUKH, J.]

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