

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2502 OF 2023

Anil Gajanan Jadhav ... Applicant
Vs.
State of Maharashtra and another ... Respondents

WITH
BAIL APPLICATION NO.2428 OF 2023

Natha Laxman Pawar ... Applicant
Vs.
State of Maharashtra ... Respondent

WITH
BAIL APPLICATION NO.2478 OF 2023

Vicky Masu Pawar ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Kuldeep Patil a/w. Ms. Saili N. Dhuru for Applicant in BA/2502/2023.
Mr. Datta Mane a/w. Mr. Shreyas A. Choudhari for Applicant in BA/2428/2023.
Ms. Anjali Patil for Applicant in BA/2478/2023.
Ms. Megha S. Bajoria, APP for Respondent-State.
Mr. Saakshat Relekar for Respondent No.2.

CORAM : MANISH PITALE, J.
DATE : JULY 08, 2024

P.C. :

. Heard learned counsel for the applicants, learned APP for the State and learned counsel appearing for the informant. Mr. Relekar, learned counsel was appointed for appearing on behalf of the first informant (respondent No.2). Another advocate was appointed for the very same informant in the connected bail applications. Since the said advocate has shifted his practice to Delhi as also since Advocate Relekar was already prepared to argue, he is appointed to appear on behalf of the original informant in connected bail applications also.

2. The subject FIR came to be registered on 04.02.2022 bearing FIR No.0048 of 2022 at Vishrambaug Police Station, District - Sangli, initially for offences under Sections 370 and 370(a)(2) of the Indian Penal Code, 1860 (IPC) and Sections 3, 4, 5 and 6 of the Immoral Trafficking (Prevention) Act, 1956 (PITA). Subsequently, after filing of the initial charge-sheet and the supplementary charge-sheet, offences under Sections 420, 464, 465, 466, 468, 471 and 474 read with Section 34 of the IPC were added and offences under Sections 3, 4 and 17 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) were also added against the accused persons.

3. Initially, only accused No.1 was shown as an accused in respect of the said FIR but subsequently, accused Nos.2 to 6 were added as accused persons. In these applications, accused No.2 - Anil Gajanan Jadhav, accused No.3 - Natha Laxman Pawar and accused No.4 - Vicky Masu Pawar are before this Court seeking bail. All the applicants were arrested on 07.03.2023 and they have remained behind bars since then.

4. In brief, the prosecution case is that the accused No.1 assisted by accused No.2 procured victim girls, three in number, from Bangladesh and brought them to District Sangli via West Bengal and Pune. It is further alleged against the accused persons that although the victim girls were minor, accused Nos.2 to 6 undertook actions for preparing forged and fabricated documents including birth certificates and attempted to forge Aadhar Cards to show the minor victim girls as major. The material on record in the charge-sheet and the supplementary charge-sheet is relied upon by the learned APP to contend that there is sufficient material to show a strong *prima facie* case against the applicants and that therefore, the applications deserve to be dismissed.

5. The FIR was registered at the behest of respondent No.2 (informant), a social worker associated with an organization. When the

police received information from the informant about such victims being pushed into prostitution, a decoy customer was arranged and the accused No.1 was found along with one of the victim girls at the time when the raid was conducted by the police. Further investigation led to two more victim girls being found as having been pushed into prostitution by accused No.1. Thereafter, the material that came on record i.e. the charge-sheet and the supplementary charge-sheet indicate the role of accused Nos.2 to 6 in the present case.

6. The learned counsel appearing for the applicant - accused No.2 Anil Jadhav submitted that in the first place, the said applicant was shown as one of the witnesses concerning the subject FIR. A subsequent FIR was registered at the behest of one of the victim girls. The said FIR i.e. 0045 of 2023 dated 01.02.2023 registered at Vishrambaug Police Station, District Sangli showed unknown accused persons on the statement of the informant i.e. one of the victim girls about the manner in which a police person not only indulged in sexual intercourse with the victim but also indulged in extortion. The learned counsel for the accused No.2 submitted that during the investigation in the said subsequent FIR, the victim girl took the name of the applicant for the first time as being the person, who accompanied the victim girls and attempted to get their Aadhar cards prepared. It is submitted that other than such material, nothing incriminating is available on record and significantly, the Sessions Court itself has granted bail to the said applicant (accused No.2) in connection with the subsequent FIR bearing FIR No.0045 of 2023. In the said order dated 20.06.2023, passed by the Sessions Court, it is specifically recorded that the applicant is only attributed with the role of having secured a safe place to hide the victim girls engaged in prostitution and that further custody of the applicant was unnecessary.

6. On this basis, it was submitted that the applicant ought to be granted bail in the present case also, particularly because the material allegedly showing the involvement of the said applicant (accused No.2) concerns statements made by co-accused persons, which cannot be looked at by the Court. It is submitted that, at worst, the allegation against the applicant (accused No.2) is that he attempted to prepare Aadhar Cards, but there is no indication of the said applicant's involvement in pushing the victim girls into prostitution. On this basis, it is submitted that the application deserves to be allowed.

7. The learned counsel appearing for the applicant (accused No.3) - Natha Pawar submitted that the only material against the said applicant is the statement of co-accused person and contents of some *WhatsApp* chats exchanged between the said applicant and accused No.4. It is submitted that since the mobile phones and other articles of the said applicant are already taken into custody and he has remained behind bars since 07.03.2023, this Court may consider allowing his bail application.

8. The learned counsel appearing for the applicant (accused No.4) - Vicky Pawar submitted that the allegations pertaining to him concern only exchange of *WhatsApp* chats with accused No.3, wherein photographs of alleged forged documents were recovered. It is submitted that no purpose would be served by keeping the said applicant in custody.

9. The learned APP has opposed the prayers made in the application. It is submitted that the role of accused Nos.2, 3 and 4 is evident from the material available on record. They assisted the accused No.1 in preparing forged and fabricated documents in order to show the minor victim girls as major. They were also shown as Indian nationals while they were illegally brought into India from Bangladesh. It is submitted that these are serious offences and that therefore, this Court may not

allow the applications. In the context of applicant (accused No.2), attention of this Court was specifically invited to witnesses, who gave statements as to the manner in which the said applicant was actively involved along with the accused No.1 in transportation of the victim girls from Bangladesh to India, eventually pushing them into prostitution.

10. This Court has perused the material on record including the documents filed with the charge-sheet and the supplementary charge-sheet. Initially, the applicants were not arraigned as accused persons but subsequently, when the investigation progressed, their role became apparent. Undoubtedly, in the initial statements given by the victim girls, the focus of their statements was on accused No.1 and the manner in which the accused No.1 pushed them into prostitution. At one place, the victim girls have indicated the circumstances in which they left Bangladesh and came to India and thereafter, they agreed to become part of the business of prostitution.

11. But, the statements of the victim girls have to be appreciated in the backdrop of the material that subsequently came on record, which shows that their forged birth certificates were prepared and a specific allegation was levelled against the accused about showing the victim girls who were minor as major. The girls having been brought illegally from Bangladesh were shown as Indians and the allegations pertaining to forgery and fabrication surfaced against accused Nos.2 to 6. This is a serious matter, where not only have the minor girls been pushed into prostitution but forged and fabricated documents have been prepared in order to show that said girls as Indians and having attained the age of majority.

12. As regards applicant (accused No.2), this Court is of the opinion that there is sufficient material to indicate a strong *prima facie* case

against him regarding his involvement in preparation of forged and fabricated documents i.e. birth certificates and attempt at preparing Aadhar Cards. The material on record also indicates that the said documents were prepared on the instructions of the applicant (accused No.2). It is significant that the material on record also indicates the manner in which the applicant (accused No.2) assisted and was involved with accused No.1 in procuring the girls from Bangladesh and eventually pushed them into prostitution. At few places, it is stated that the applicant (accused No.2) is the husband of accused No.1. But, this is denied by the applicant (accused No.2). Nonetheless, the statements on record, including the statement of one of the victim girls shows the manner in which the applicant (accused No.2) accompanied accused No.1 and he was present at the railway station in Pune to fetch the victim girl and to bring her to the place where she was ultimately pushed into prostitution.

13. The material on record shows that the involvement of the applicant (accused No.2) along with the accused No.1 in procuring the victim girls from Bangladesh. The accused No.1 is also from Bangladesh and she was brought into India, the association of applicant (accused No.2) with the accused No.1 is *prima facie* made out on the basis of the material on record and since the offences include serious offences under the POCSO Act also, this Court is inclined to dismiss the application of the applicant (accused No.2).

14. As far as applicants (accused Nos.3 and 4) are concerned, although there is material, which links them with the act of preparation of forged documents like birth certificates of the victim girls, the actual act of forgery and fabrication, at this stage, may not be attributable to them. It appears that they were conduits through whom accused No.2 reached accused Nos.5 and 6 in order to prepare the forged documents.

This is evident from the contents of *WhatsApp* chats exchanged between accused Nos.3 and 4. Such *WhatsApp* chats included photographs of allegedly forged documents emanating from accused Nos.5 and 6, which are said to have been prepared on the directions of accused Nos.1 and 2.

15. The mobile phones of the accused Nos.3 and 4 were already taken into custody and the said accused persons have remained behind bars since 07.03.2023.

16. Considering the role attributed to accused Nos.3 and 4, since they have remained behind bars for one year and four months, as also the fact that they do not have any criminal antecedents, this Court is inclined to allow their applications.

17. In view of the above, the application of accused No.2 i.e. Anil Jadhav is dismissed.

18. Bail Application Nos.2428 of 2023 and 2478 of 2023 are allowed in the following terms:-

- (A) The applicants i.e. Natha Pawar and Vicky Pawar shall be released on bail in connection with No.0048 of 2022 dated 04.02.2022 at Vishrambaug Police Station, District - Sangli on furnishing P.R. Bond of Rs.50,000/- [Rupees Fifty Thousand only] each and one or two sureties in the like amount to the satisfaction of the trial Court;
- (B) The applicants shall not tamper with the evidence of the prosecution. They shall not influence the informant, witnesses or any other person concerned with the case;
- (C) The applicants shall cooperate with the proceedings before the trial Court and they shall attend each and every date, unless specifically exempted by the trial Court for reasons

to be recorded in writing;

- (D) The applicants shall not enter jurisdiction of Vishrambaug Police Station, during the pendency of the trial;
- (E) Upon being released on bail, within two weeks, the applicants shall communicate the details of their contact numbers and residential addresses to the trial Court.

19. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicants in Bail Application Nos.2428 of 2023 and 2478 of 2023 and that the trial Court shall proceed further, without being influenced by the observations made in this order.

20. The application are disposed of.

(MANISH PITALE, J.)

Minal Parab