

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO. 432 OF 2024**

Sushant Ganesh Pujari

.Applicant

*Versus*

The State of Maharashtra & Anr.

.Respondents

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Ms. Fehmida Ahmed, a/w. Deepak Thakur, i/b M.B. Shirsat, for the Applicant.

Ms. Veera Shinde, APP, for the Respondent No.1 – State.

Ms. Shraddha S. Pawar, for the Respondent No.2.

Mr. N.D. Purbhe, API-Arnala Police Station, present.

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**CORAM: MADHAV J. JAMDAR, J.**

**DATE: 08.05.2024**

**P. C.**

1. Heard Ms. Ahmed, learned Counsel for the Applicant, Ms. Shinde, learned APP for the Respondent-State and Ms. Pawar, learned Counsel appointed to represent the interests of Respondent No.2.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"). The relevant details are as follows:

|    |                                |                                                                                 |
|----|--------------------------------|---------------------------------------------------------------------------------|
| 1. | C. R. No.                      | 354 of 2022                                                                     |
| 2. | Date of registration of F.I.R. | 17.11.2022                                                                      |
| 3. | Name of Police Station         | Arnala                                                                          |
| 4. | Section/s invoked              | 376(2)(n), 370, 342 r/w. 34 of the I.P.C., 1860;<br>3, 4, 5 of POCSO Act, 2012. |
| 5. | Date of incident               | 10.11.2022                                                                      |
| 6. | Date of arrest                 | 17.11.2022                                                                      |
| 7. | Date of filing of Charge-sheet | February 2023.                                                                  |

3. The F.I.R. was lodged on 17<sup>th</sup> November 2022 on the basis of the statement of the victim. In the said statement, the victim has mentioned that her age was 22 years. It is stated that she got acquainted with one Laxman Kartik Shetty at Springhill Hotel, Vikhroli, Mumbai and he told her that she would get money if she was willing to work as a sex worker and therefore she consented for the same. Various dates and the corresponding incidents are mentioned in the F.I.R.. The victim then went to various places to work as a sex worker. It appears that there was some dispute regarding money due to the victim and Laxman went away without paying the victim. On 7<sup>th</sup> November 2022, the victim called her mother and her mother came to the lodge after which they contacted Laxman on cell phone and he then informed them to come to Andheri to collect the money. At that time, one Mahee Singh came out from a room and started demanding that the victim return the amount of Rs.35,000/- which Mahee alleged had been stolen either by the victim or by Laxman. Mahee was insisting that the mother of the victim should remain in the lodge till the time her stolen money is returned to her. The Applicant who was the friend of one Aakash staying in room No.107 in the same lodge, on the pretext of dropping the victim at the railway station, sexually assaulted the victim on the way near Arnala village.

4. Learned counsel for the Applicant submits that the relations between the Applicant and victim were consensual. In fact, the victim

is 22 years old. She submitted that the victim possesses 2-3 aadhar cards, each showing a different birth date. She pointed out the aadhar card copy on page 175 where the birth date of the victim is shown as 30.08.2000. She submitted that the F.I.R. lodged is totally false and no such incident has taken place.

5. On the other hand, Ms. Shinde, learned APP and Ms Pawar, learned Counsel appointed to represent Respondent No.2, strongly opposed the Bail Application. Both of them submitted that the victim is a minor. To substantiate said contention, they pointed out copy of birth certificate on page 58 showing the date of birth of the victim as 30.08.2007. Copy of aadhar card (page 59) also shows the date of birth of the victim as 30.08.2007. Both of them pointed out report of medical examination and submitted that the same supports the prosecution case. Therefore, both of them submitted that the Bail Application be rejected.

6. Perusal of the record shows that the F.I.R. was lodged on 17<sup>th</sup> November 2022, the Applicant was arrested on 17<sup>th</sup> November 2022 and the Charge-sheet was filed in February 2022. As per the Charge-sheet, there are 23 witnesses proposed to be examined. Till date, there is no progress in the trial and even the charge is also not framed yet.

7. *Prima-facie*, there is substance in the contentions of the learned Counsel for the Applicant as the victim is in possession of multiple aadhar cards and other documents showing different birth dates. In

the F.I.R., the victim herself has given her age as 22 years. Although Ms. Shinde, learned APP and Ms. Pawar, learned Counsel appointed to represent Respondent No.2 had relied on the medical evidence, however, it is to be noted that the factual position shows that the victim was working as a sex worker.

8. The Applicant does not have any criminal antecedents. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

9. In view thereof, the following order:

### **ORDER**

(a) The Applicant – Sushant Ganesh Pujari be released on bail in connection with C. R. No.354 of 2022 registered with the Arnala Police Station, District - Palghar on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(c) The Applicant shall report to the Arnala Police Station, District – Palghar once in a week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

(e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

10. The Bail Application is disposed of accordingly.

11. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

12. This Court places on record its appreciation of the assistance rendered by Ms. Shraddha Pawar, learned Counsel appointed to represent the interest of Respondent No.2. The High Court Legal Services Committee, Mumbai is requested to pay her professional fees as per rules and her name be included in the panel maintained by the High Court Legal Services Committee, Mumbai.

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**[MADHAV J. JAMDAR, J.]**