



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1349 OF 2023**

Rajesh Sonaji Shinde

... Applicant

versus

The State of Maharashtra and Anr.

... Respondents

Mr. Nikhil D. Patil, for Applicant (appointed through legal aid).

Mrs. Gauri Rao, APP for State.

None present for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 7 MAY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.293 of 2019, registered with Rabale Police Station for the offence punishable under Section 370 of Indian Penal Code and Sections 4, 5 and 9 of the Immoral Traffic (Prevention) Act, 1956 and Sections 4, 6 and 17 of the Protection of Children from Sexual Offences Act, 2012, has preferred this application to enlarge him on bail.
3. The gravamen of indictment against the applicant is that the first informant and the child victim are the daughters of the applicant's deceased brother. The first informant and the victim were residing in the house of the applicant. The applicant had initially forced the first informant and the victim to work in a dance bar and, thereafter, made the first informant and the victim have sexual intercourse with the persons who visited the dance bar, and, thereby lived on the earnings of

prostitution. The first informant alleged that after the initial acts of exploitation, she left the house of the applicant. However, the victim and her younger brother continued to stay with the applicant. Thereafter, the applicant exploited the child victim.

4. The allegations in the FIR find prima facie support in the statements of the first informant and the victim recorded before the learned Magistrate under Section 164 of the Code of Criminal Procedure, 1973. The child victim has categorically stated that the applicant forced the said victim to work in the dance bar and have sexual intercourse with the persons who visited the dance bar and harassed her when she did not bring money.

5. Learned Counsel for the Applicant submitted that though there is prima facie material in support of the allegation, the fact that the applicant has been in custody for five years, deserves to be taken into account and the applicant deserves to be enlarged on bail on the said count.

6. Learned APP resisted the prayer for bail in the light of the material on record.

7. Prima facie, the allegations against the applicant are of a grave nature. The first informant and the victim have stated on oath the nature of the exploitation the first informant and the victim were subjected to physical, financial and sexual. At this stage, it would be difficult to discard the statements of the first informant and the

victim recorded under Section 164 of the Code. I am, therefore, not inclined to entertain the prayer for bail.

8. Nonetheless, the fact that the applicant has been in custody since 12th October 2019 is required to be taken into account. Long period of incarceration without a real prospect of expeditious conclusion of the trial furnishes a ground for releasing the applicant on bail. Having regard to the nature of the accusation, the circumstances of the case and the relations between the applicant and the victim, it may be appropriate to request the learned Special Judge seized with Special Case No.219 of 2023 arising out of C.R.No.293 of 2019 to commence and conclude the trial in the said case as expeditiously as possible and preferably within a period of nine months from the date of communication of this order.

9. Order accordingly.

10. The application stands disposed.

(N.J.JAMADAR, J.)