

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 4145 OF 2023

Mohammed Ismail Imran Shaikh

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

**WITH
BAIL APPLICATION NO. 494 OF 2024**

Ashish Purshotam Patel

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

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- Mr. Prabhanjay R. Dave a/w Mr. Anish S. Jadhav, for Applicants.
- Ms. Rutuja Ambekar, APP for Respondent No.1 – State in BA/4145/2023.
- Mr. Babu V. Holambe Patil, APP for Respondent No.1 – State in BA/494/2024
- None for Respondent No.2
- Mr. J. More, PSI, Andheri Police Station.

CORAM : MANISH PITALE, J.

DATE : 01st August, 2024.

P. C. :

1. Heard learned counsel for the applicants and the learned APPs for respondent No.1 State.

2. The applicants have approached this Court seeking bail, as they were arrested on 27th January, 2021, in connection with First Information Report No.051 of 2021, registered at Police Station Andheri, Mumbai, for the offences under Sections 366(a), 370 and 372 read with Section 34 of the

Indian Penal Code (IPC); Sections 4 and 5 of the Immoral Trafficking (Prevention) Act, 1956 (PITA) and Sections 4, 16, 17 and 18 of the Protection of Children from Sexual Offences Act, (POCSO).

3. The FIR was registered on the statement of the informant, who is a Police Officer. Information was received that the co-accused person was involved in forcing the victim girl, who was aged about 14 years, into prostitution. It was stated that he called the victim to Andheri (East) in a restaurant and when the applicants were also present, a decoy customer was sent and eventually the accused persons were apprehended and offences under the aforementioned provisions were registered against them.

4. The learned counsel for the applicants made the following submissions in support of the present bail applications :

(a) The statement of the victim under Section 164 of the Cr.P.C. at the most implicates the co-accused person and the applicants have not been named at all in respect of the incident in question.

(b) There is nothing to connect the applicants with the incident in question and their presence is also rendered doubtful, if the statements of the only two independent witnesses i.e. employees of the said restaurant, are taken into consideration.

(c) The applicants have remained behind bars since 27th January, 2021 i.e.

for a period of more than 3 ½ years with no sign of the trial commencing.

5. On the other hand, learned APPs made the following submissions :

(i) Information was received that co-accused and the applicants were involved in the act of prostitution through young girls like the victim. Reliance is placed on the documents on record brought to the notice of this Court that after the mobile phones was seized, it was found that the co-accused person was in touch with the applicants and that the said co-accused person had even sent the photograph of the victim to the applicant Ashish Patel on his mobile.

(ii) Reliance was placed on the statement of the victim recorded under Section 164 of the Cr.P.C., wherein she not only named the co-accused person, but she specifically stated that the friends of the co-accused persons i.e. the applicants herein also came at the place of incident, specifically alleging that they were also asking the applicant to indulge in prostitution.

(iii) Specific attention of this Court is invited to the chats exchanged with the co-accused person in order to emphasize that all the three accused persons were clearly involved in the incident in question, thereby showing that applicants do not deserve to be enlarged on bail.

6. This Court has considered the aforesaid material placed on record

with the applications, as also the documents filed along with the charge-sheet.

7. Although there does not appear to be reference to the applicants in the statement of the victim recorded under Section 164 of the Cr.P.C., the material on record, including the chats exchanged in the mobile numbers of the applicants and the co-accused person, indicate that they were in touch with each other. The photograph of the victim girl being sent from the mobile phone of co-accused person to one of the applicants, further indicates a strong *prima facie* case against the applicants about their involvement in the incident in question. The victim being hardly 14 years of age at the relevant time and the manner in which the co-accused person was pushing her into prostitution, indicates the seriousness of the offences against the applicants.

8. There is sufficient material to raise a *prima facie* case of involvement of the applicants along with co-accused person in the incident in question. Some of the offences registered against the applicants provide for imprisonment of 10 years, thereby indicating that merely because the applicants have remained behind bars since 27th January, 2021, cannot be a factor for granting them bail.

9. It is submitted on behalf of the applicants that the trial could take considerable period of time, as the prosecution intends to examine about 15 witnesses and further that the victim is not traceable. This is seriously

disputed by the learned APPs on instructions, and it is submitted that the victim girl is available and that the trial can be proceeded with.

10. In view of the above, the applications are dismissed. The Special Court is directed to expedite the trial. All the stakeholders are directed to cooperate with the Special Court for expeditious disposal of the trial.

(MANISH PITALE, J.)