

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

**CRIMINAL BAIL APPLICATION NO. 3270 OF 2024**

Khalil Rehman Bara

...Applicant

*Versus*

The State of Maharashtra

...Respondent

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Ms. Fehmida Ahmed i/by M.B. Shirsat, Advocate, for the Applicant.

Ms. R.V. Newton, APP, for Respondent- State.

Ms. Shraddha Vavhal appointed for Respondent No.2.

PSI, R.S. Bhadrashete, Arnala Sagari Police Station, M.B.VV,  
Commissionerate.

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

**DATED : 9<sup>th</sup> September 2024**

**P. C.**

1. Heard Ms. Ahmed, learned Counsel for the Applicant, Ms. Shraddha Vavhal, learned Counsel appointed to represent the interest of Respondent No.2 and Ms. Newton, learned APP for the Respondent-State.

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

|    |                                |                                                          |
|----|--------------------------------|----------------------------------------------------------|
| 1. | C.R. No.                       | 354 of 2022                                              |
| 2. | Date of registration of F.I.R. | 17 <sup>th</sup> November 2022                           |
| 3. | Name of Police Station         | Arnala                                                   |
| 4. | Section/s invoked              | 376 (2)(n), 370, 342 r.w 34 of the <i>I.P.C., 1860</i> ; |

|    |                             |                                |
|----|-----------------------------|--------------------------------|
|    |                             | 3,4,5 of POCSO Act, 2012.      |
| 5. | Date of incident            | 10 <sup>th</sup> November 2022 |
| 6. | Date of arrest              | 17 <sup>th</sup> November 2022 |
| 7. | Date of filing Charge-sheet | February 2023                  |

3. The F.I.R. was lodged on 17th 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 7th 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 Accused No.2 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. As far as the allegation against the present Applicant i.e. Accused No.3 is concerned, it is alleged that he confined the victim in a room and informed her that she would not be released, till said amount of Rs.35,000/- has been paid by her.

4. Ms. Ahmed, learned Counsel for the Applicant submitted that as far as the present Applicant is concerned, there is no allegation of sexual exploitation and therefore, the offence under Section 376(2)(n), 370, of the *I.P.C., 1860*; and also POCSO Act, 2012 is not made out. As far as the present Applicant is concerned, she submitted that the only allegation against the present Applicant is that the Applicant had confined the victim to her room. She submits that in fact the material on record shows that during that period, the Applicant had visited different places. In any case, she submits that in the F.I.R. lodged by the victim, she also stated her age as 22 years. The victim possesses different Aadhar Cards which shows different birth dates. She submits that therefore the offence under POCSO Act is not made out. She submits that in any case, the Applicant is incarcerated since 17<sup>th</sup> November 2022. She submits that there is no progress in the trial and even the charge is also not framed.

5. On the other hand, Ms. Newton, learned APP and Ms. Shraddha Vavhal, learned Counsel appointed to represent Respondent No.2, strongly opposes the Bail Application. Both of them submitted that the victim is a minor. They pointed out Birth Certificate of the victim, which mentions date of birth as 30<sup>th</sup> August 2007. Both of them submitted that the Applicant has actively participated in the offence and therefore 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 17th November 2022 and the Charge-sheet was filed in February 2023. 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 contention that there is no allegation made in the Charge-sheet concerning sexual exploitation against the present Applicant.

8. The Applicant does not have any other criminal antecedents.

9. The Applicant does not appear to be at risk of flight.

10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

11. In view thereof, the following order:

**ORDER**

- (a) The Applicant – Khalil Rehman Bara 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.

12. The Bail Application is disposed of accordingly.

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

14. This Court places on record its appreciation of the assistance rendered by Ms. Shraddha Vavhal, 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.

BHALCHANDRA  
GOPAL  
DUSANE

(MADHAV J. JAMDAR, J.)

Digitally signed by  
BHALCHANDRA  
GOPAL DUSANE  
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