

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1873 OF 2024

Dnyaneshwar Rajabhau Bhosale

...Applicant

Versus

The State of Maharashtra & Ors.

...Respondents

- Mr. Abhijit Kulkarni a/w Mr. Chinmay Patil, for Applicant.
- Mr. Kiran C. Shinde, APP for Respondent.

CORAM : MANISH PITALE, J.

DATE : 14th OCTOBER, 2024.

P. C. :

1. In this application, this Court had granted interim order in favour of the applicant specifically on account of the submissions made in the context of Section 3(2-A) of the Immoral Traffic (Prevention) Act, 1956 (PITA).
2. The interim order was granted in favour of the applicant, subject to the applicant cooperating with the investigation and remaining present before the Investigating Officer on a specific date.
3. The learned APP submits that the applicant indeed remained present before the Investigating Officer as directed and on the said date he gave a statement that since he was in need of money, he asked certain women who were into the activity of prostitution to use the premises taken on lease by the applicant for the business of prostitution. According to the learned APP, this clearly divulges knowledge on the part of the applicant about the aforesaid

activity and hence, the manager of the said premises / lodge taking the name of the applicant, falls into place and further indicates that the applicant does not deserve to be granted any protection.

4. It is also brought to the notice of this Court that the co-accused (manager) was granted regular bail in the subject FIR, but subsequently, on 11.09.2024, an FIR has been registered at the very same police station concerning those very premises with regard to the activities of prostitution. Offences have been registered under the provisions of the PITA as well as the Bharatiya Nyaya Sanhita, 2023. In the said case also, the co-accused (manager) has taken the name of the applicant. It is submitted that the applicant is indulging in such activities with impunity and he is misusing the protection granted by this Court by interim order dated 01.08.2024.

5. The learned counsel for the applicant submits that even as on today with regard to the subject FIR, there is no credible material to implicate the applicant. The position of law under Section 3(2-A) of the PITA, clearly inures to the benefit of the applicant. As regards the statement made on 03.08.2024, when the applicant remained present before the Investigating Officer pursuant to the direction issued by this Court, it is submitted that the same is hit by Evidence Act and it cannot be looked at, since such a statement is made before the Police Officer.

6. It is submitted that the subsequent FIR cannot be looked at, as it cannot be treated as a criminal antecedent. Even in the said case, it is merely the statement of the co-accused (manager), which is sought to be used for implicating the applicant.

7. The aforesaid circumstances brought to the notice of this Court give rise to issues that require serious consideration. One of the issues being, as to the whether the applicant seeking the shelter of Section 3(2-A) of PITA can be permitted to continue with such activity with impunity while enjoying interim protection granted by this Court. In that light, it would be necessary to peruse the investigation papers with regard to the subject FIR as well as the subsequent FIR i.e. FIR No.0296 of 2024, dated 11.09.2024, registered at Police Station Barshi Taluka, District Solapur. The Investigating Officers in both the FIRs are directed to remain present in this Court with the investigation papers on the next date of listing.

8. List the application for further consideration on **22nd October, 2024, to be included in the “Supplementary List.”**

9. The interim order shall continue to operate till then.

(MANISH PITALE, J.)