



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.209 OF 2024

Ashish Rakesh Chawla

Vs.

State of Maharashtra, Through its Police Station Officer, Police Station,
Beltarodi, Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. V. Bobde, Advocate h/f Ms. S. J. Jadhao, Advocate along with Mr. S. S. Shukla, Advocate for applicant.

Ms. Ritu Shirma, APP for respondent No.1/State.

Ms. Radha Mishra, appointed Advocate for respondent No.2.

Mr. N. T. Gwalwansh, Advocate for intervenor.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/04/2024

Criminal Application (APPP) No.487 of 2024

1. The application is filed by the father of the victim for seeking permission to engage the Counsel to assist the prosecution.

2. In view of the reasons mentioned in the application, the application is allowed. He is permitted to engage the Counsel to assist the prosecution.

3. The Criminal Application No.487/2024 is disposed of.

CRIMINAL APPLICATION (BA) NO.209 OF 2024

1. The applicant came to be arrested on 13.02.2024 in connection with Crime No.109/2024 registered with Police Station, Beltarodi, Nagpur for

the offence punishable under Sections 370, 370(1) read with Section 34 of the Indian Penal Code and Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. The accusation against the present applicant is that the father of the present applicant is owner of hotel Krishnakunj, Nagpur and present applicant is looking after the affairs of the said hotel. On 12.02.2024 the Crime Branch Unit – 4, Nagpur received a secret information that a person namely Alok is running a business of prostitution by providing place and inducing minor girls into the prostitution by offering them on money. Immediately the raid was conducted in the said hotel Krishnakunj by deploying the dummy person and a minor girl aged about 16 years was found. On questioning the victim, she informed that she was brought to the place of incident by co-accused Alok Raikwar for the illegal business of prostitution. Upon inquiry, the accused No.2 Manager Dheeraj Khule stated that the entire affairs of the hotel are managed by the applicant and therefore, the applicant is arrested.

3. Learned Counsel Mr. Bobde, for the applicant submitted that as far as the allegation in the FIR is concerned, which is only to the extent that the applicant is looking after the affairs of the hotel.

In fact, the applicant is a Chartered Accountant by profession and the hotel is owned by his father. He also invited my attention towards the agreement between his father and other co-accused to show that the said hotel is already given on a lease to one Gajanan Ramhari Sonone, Prajal Hemrajji Tapri and as per the terms and conditions of the agreement it would be responsibility of the party No.2 to look after and take care of the entire, lodging and boarding and the said premises at their own risk, cost and consequences and the party No.1 will not be responsible for any loss sustained by the party No.2. As per the clause No.14 of the said agreement, the party No.2 or their family or employees or any other person associated with them shall not use the premises for any illegal activity or immoral purpose or any other activity which constitutes breach of law and if they do so they will be solely responsible for the same and party NO.1 will not be responsible for the same.

4. He submitted that said lease agreement again renewed on 1st January, 2024 between the same parties. Thus, he submitted that neither the present applicant is connected with the affairs of the said hotel nor the hotel is run either by his father or by him, but it is already given on lease. He further submitted that even taking into consideration the allegation as it is and the statement of the co-accused which only shows that he was only

looking after the affairs of the hotel i.e. the day-to-day activities of the hotel. As far as the allegations of sexual assault on the prostitution was against the co-accused and not the present applicant. Even there is no allegation that applicant is running any prostitution business in the said premises. In view of that, as there is no *prima facie* material against the present applicant, he be released on bail and his further incarceration is not required.

5. Learned APP strongly opposed the application on the ground that initially also one raid was conducted in the said hotel, wherein it revealed that some prostitution business was going on in the said hotel. She further submitted that considering the minor girl was found in the said hotel along with the dummy customer. *Prima facie* case is made out to show that the hotel room was used for the said prostitution. In view of that, the application deserves to be rejected.

6. Learned appointed Counsel for the respondent No.2 – victim also reiterated the said contentions and prayed for rejection of the application.

7. Learned Counsel for the father of the victim i.e. intervenor submitted that this is the second FIR lodged against the said hotel alleging that prostitution business is running in the said hotel. He

placed reliance on **Krishna Surendra Singh Vs. State of Maharashtra and another** reported in **2016 SCC OnLine Bom 12979** wherein this Court by referring the decision in **Criminal Public Interest Litigation No.4/2015** in the case of **Freedom Firm Vs. Commissioner of Police, Pune**, wherein in para No.28 it is observed that the Court would, as a general principle, refuse bail to an accused who is shown as a trafficker in human beings as such accused pursues a career in such crime, which is prone to reputation, which is expected to have antecedents and which is generally indisposed to intimidation and threats. On the basis of this decision he submitted that the application of the applicant deserves to be rejected.

8. Having heard the learned Counsel for the applicant and learned APP for the State as well as learned Counsel for the intervenor and the appointed Counsel for the respondent No.2 – victim, perused the recitals of the FIR. As far as the recitals of the FIR is concerned, which only to the extent that said hotel is owned by one Rakesh Balbirsingh Chawla and present applicant is the son of the said Rakesh Chawla and looking after the affairs of the said hotel. I have also perused the statement of the victim girl who states that as there was a quarrel between her and her sister, she left the house and stayed at the house of her maternal uncle and thereafter, she got acquaintance with one girl, who was in the

prostitution business. One day, she received a phone call of the co-accused Alok Raikwar, who asked her about the prostitution for which, she consented. Thereafter, on 12.02.2024 said co-accused Alok Raikwar called her and asked to come to meet him. Thereafter, he introduced her with one customer and that customer took her in a hotel at Krishnakunj and kept her in one room. Thus, the allegation in the statement of the victim shows that the co-accused Alok Raikwar who took her in the said hotel. Thus, even the entire case of the prosecution nowhere shows that the applicant is dealing with the said prostitution business or any prostitution business is going on in the said hotel. Thus, considering the recitals of the FIR and the statement of the victim, the applicant is neither human trafficker nor brothel owner, only allegation against him is that the co-accused has brought the girl in the said hotel and room of the hotel was allotted to the said customer and the victim. Except this, there is no other material to connect the present applicant to show that the offences alleged are attracted against the present applicant. As there is no allegation that either he has trafficked the victim girl or subjected her for sexual assault or the sexual harassment or he is running any brothel or running prostitution business.

9. Considering the entire material collected by the Investigating Officer, now the investigation is completed, charge-sheet is yet to be filed, further

incarceration of the present applicant is not required.

In view of that, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Ashish Rakesh Chawla** be released on bail in connection with Crime No.109/2024 registered with Police Station, Beltarodi, Nagpur for the offence punishable under Sections 370, 370(1) read with Section 34 of the Indian Penal Code and Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(iv) The learned trial Court shall not be influenced by the observations made by this Court which are only for the purpose of the bail.

10. The fees of the appointed Counsel for the respondent No.2 be quantified as per rules.

11. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)