



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.320 OF 2024
(Shubham Vijay Deshkar Vs. The State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.N. Ali, Advocate for the applicant.
Ms H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 1, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 26/10/2023 in connection with Crime No.1301/2023 registered with Police Station Awdhootwadi, Yavatmal, District Yavatmal for the offence punishable under Sections 3, 4, 5(c) of the Immoral Traffic (Prevention) Act, 1956.

2. The accusation against the present applicant is that on 26/10/2023 the LCB Yavatmal received a secret information that at the residential house of the applicant at Gurudeo Nagar, Yavatmal prostitution work is going on, and therefore, they have conducted the raid with a dummy person wherein the minor victim were found involved for the prostitution purpose. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that there are no criminal antecedents against the present applicant. As far as the contention of the prosecution that the applicant was found running the prostitution business at his home, he filed an affidavit that he has already shut down the said brothel which was at his home. In view of that, his further custodial interrogation is not required and considering the fact that now charge-sheet is filed, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that in view of the guidelines issued in a *Freedom Firm Vs. Commissioner of Police, Pune and ors. [(2015) 10 BOM CK 0175]* wherein the guidelines are laid down for granting bail in the offences registered under the Immoral Trafficking (Prevention) Act, 1956 (ITPA). She submitted that in view of the said guidelines the application of the present applicant deserves to be rejected.

5. I have heard learned Counsel for the both the parties. Perused the recitals of the FIR as well as the investigation papers. The raid was conducted on the basis of secret information received by the LCB. The dummy person was sent at the house of the present applicant and during the raid the minor girls were found at the house of the present applicant. The statements of the minor girls were also recorded from which it reveals that they were used for the said prostitution work. Now, investigation is

completed and charge-sheet is filed. The applicant is behind bar almost for one year. As far as the guidelines issued by this Court in Freedom Firm Vs. Commissioner of Police, Pune and ors. (*supra*) are concerned it shows that (a) The fundamental right of the victim not to be trafficked. (b) The antecedents of the accused - the trafficker would be easily seen to have been earlier apprehended and arrested. Such accused are habitual offenders. (c) The repetitiveness of the offence - since it is a career in crime, it is bound to be repeated upon the accused being released on bail thus trafficking further similar victims which is the State's duty to prevent. (d) The intimidation and threat that accompanies the relationship between the accused and the victim. The victim is the helpless chattel of the accused, the accused being in a position to threaten her to lie and coerce her to turn hostile and thus tamper with evidence. (e) The economic position of the accused, if a trafficker, (f) The violence involved in the case and keeping in mind these diverse ways to frustrate justice, the application of the bail to be considered. It is further held that bail should also be denied if the victim is a minor except in case of any extraordinary, compelling or special circumstances to be explained in the order itself and upon the most stringent conditions. It is further held that if a brothel owner closed the said brothel then his bail application can be considered on closure of the said brothel.

6. The applicant has already filed an affidavit on record to show that the place where the raid was conducted is the dwelling where the applicant and his family are residing. He gave the undertaking that said house will only be used as a dwelling and no such activities which is a subject matter of present crime shall be carried out in the said house.

7. Thus, considering the applicant has already given an undertaking that he will use the said house only for dwelling and considering the fact that he is behind bar since last one year, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Shubham Vijay Deshkar in connection with Crime No.1301/2023 registered with Police Station Awdhootwadi, Yavatmal, District Yavatmal for the offence punishable under Sections 3, 4, 5(c) of the Immoral Traffic (Prevention) Act, 1956, be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the police station Awdhootwadi, Yavatmal once in a month i.e. first day of every month and the

Investigating Officer shall record his presence.

(iv) The applicant shall not indulge in similar type of the activities and if it revealed that he is again involve in the similar type of the activities like prostitution, the bail granted to the present applciant deserves to be cancelled.

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

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*