



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

CRIMINAL APPLICATION (BA) NO. 373 OF 2024

Rakesh s/o Balbirsingh Chawla V/s The State of Maharashtra and another.

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

Court's or Judge's Order

Mr. Arjun Bobde, counsel with Ms. S.A. Jadhao with Mr. S.S. Shukla, counsels for the applicant.

Mrs. Swati Kolhe, APP for the non-applicant/State.

Mr. Nitesh T. Gwalwansh, counsel for the non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 30/04/2024.

1. The applicant came to be arrested on 24/02/2024 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 he is the owner of Hotel Krishnakunj, Nagpur and his son is looking after the affairs of the said hotel. On 12.02.2024 the Crime Branch Unit – 4, Nagpur received secret information that a person namely Alok is running a business of prostitution by providing a place and inducing minor girls into the prostitution by offering them 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 the 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 co-accused i.e. Ashish Rakesh Chawla and the present applicant is the owner of the hotel. In view of that, he was 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 the owner of the said hotel. In fact, the applicant has given the said hotel on lease to one Gajanan Ramhari Sonone, Prajal Hemrajji Tapri, and as per the terms and conditions of the agreement it would be the responsibility of 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 a 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 him or his son, but it is already given on lease. He further submitted that even taking into consideration the allegation as it is, the statement of the co-accused which only shows that son of the applicant was looking after the affairs of the hotel and the present applicant is the owner of the hotel. As far as the allegations of sexual assault or the prostitution is concerned, it is not against the present applicant. In view of that, there is no prima facie material against the present applicant, and therefore, he be released on bail.

5. Learned APP strongly opposed the said application on the ground that initially, one raid was conducted in the said hotel, wherein also, 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 a dummy customer, prima-facie case is made out, and the application deserves to be rejected.

6. Learned appointed Counsel for the non-applicant No.2 – victim also reiterated the said contentions and in addition to that, he raised the suspicion about the lease agreement and license issued to the present applicant. She submitted that the present applicant was absconding since the date of the registration of the crime. The license to run the hotel is also not renewed and also raised suspicion about the lease agreement.

7. Having heard learned counsel for the applicant and learned APP for the State as well as learned counsel for the

non-applicant 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 the present applicant, and his son looking after the affairs of the 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 matrimonial 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 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 then 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 is accepted as it is, it nowhere shows that it was the present applicant who was running in the prostitution business in the said hotel. Thus, considering the recitals of the FIR and the statement of the victim, the applicant is neither a human trafficker nor a brothel owner and the only allegation against him is that, in the said hotel which is owned by him, the room was allotted to the said customer and the victim. Except this, there is no other material to connect the present applicant to show his involvement in the alleged offence. In view of that, the

application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- (a) The application is **allowed**.
- (b) The applicant – Rakesh Balbirsingh Chawla shall 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.
- (c) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (d) Humdast is granted.

The application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]