



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

CRIMINAL APPLICATION (ABA) NO.409 OF 2024

(Mohammad Nisar Bhati Abdul Shakur Bhati Vs. 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. S. Wahane, Advocate for the applicant.
Mr. M.J. Khan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 18, 2024.

Heard.

2. By this application, the applicant is seeking pre-arrest bail in connection with Crime No.294/2024 registered with Police Station Jaripatka, Nagpur, District Nagpur for the offence punishable under Sections 370 read with Section 34 of the Indian Penal Code and Sections 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956.

3. As per the allegation, the investigating agency have received a secret information that in the Relax Spa situated at First Floor, Jinjar Mall, Jaripatka, Nagpur some prostitution business was going on therefore, they have conducted the raid and it revealed to them that under the name of Spa the brothel was run, and therefore, a dummy person was sent by the investigating agency and during the raid it revealed that one girl was found and the present applicant is having leave and license of the said

shop and he has given said shop for running the Spa to his brother namely Firoz Abdul Shakur Bhati. It further revealed during the investigation that illegally the brothel was running in the said shop. On the basis of said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant vehemently submitted that as far as the present applicant is concerned he is only the licensee. He has given the said shop and his brother was running the said Spa, therefore, as far as the present applicant is concerned he is not at all concerned with the alleged offence. As far as his custodial interrogation is concerned which is not required. In view of that, he be protected by granting anticipatory bail.

5. Learned APP strongly opposed the application on the ground that leave and license agreement is between the original owner and the present applicant. Present applicant and his brother are running the Spa centre and under the name of Spa, they are running the prostitution business. He invited my attention towards the leave and license agreement as well as the statement of the original owner. He submitted that from the investigation papers and the recitals of the FIR it reveals that decoy person was sent and during the raid it revealed that one girl was found at the said place, the amount was also recovered which was given to the said girl. Thus, there is ample material on record to show that at the said

shop brothel was run by the present applicant and his brother. He further submitted that in view of the guidelines issued by the Division Bench of this Court in Criminal Public Interest Litigation No.4/2015, the Court should take into account the fundamental right of the victim not to be trafficked and considering the gravity of the offence the application deserves to be rejected.

6. I have heard learned Counsel for both the parties and perused the recitals of the FIR as well as investigation papers from which it reveals that original owner has given the said shop on leave and license basis to the present applicant. The present applicant and his brother was running the Spa centre at the said place. During investigation it further revealed that under the name of Spa, the brothel was run and one girl was found there involved in the prostitution. As observed by the Division Bench of this Court and the guidelines are issued for grant of bail in the cases of human trafficking the Division Bench has observed 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. (c) the repetitiveness of the offence as 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, this would reflect in the brothel that he or she runs and which is statutorily required to be sealed and closed by the police this would be the most potent antidote. The crime of trafficking in humans is an organized crime. It is one of the most profitable criminal activities world-wide.”

7. The Division Bench of this Court further observed that keeping in mind these diverse ways to frustrate justice adopted in various modes. The Court should consider the application for grant of bail.

8. Keeping in mind the above said directives the *prima facie* case is made out against the present applicant. In view of that, the application deserves to be rejected.

7. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)