



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

CRIMINAL APPLICATION (BA) NO. 575 OF 2024

Manoj Arun Khandare and others V/s 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. A.C. Jaltare, counsel for applicants.

Mr. K.R. Lule, APP for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/07/2024.

1. The applicants came to be arrested on 08/05/2024, in connection with Crime No. 432/2024 registered with Police Station MIDC, District Nagpur for the offence punishable under Sections 370 read with Section 34 of the Indian Penal Code, 1860 and Sections 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956.

2. The accusation against the present applicants is that they are the owners of the Hotel Royal Inn, and the First Information Report is lodged by the Police Officer on the basis of secret information received by them that one person, namely Rahul, is bringing the victim girls from various states and forcing them into prostitution by obtaining the rooms in various hotels situated near Hingna. On the basis of said information, the police led the trap to send some decoy persons, and some girls were found doing the prostitution business. On the basis of said report, police have registered the crime. After registration of the crime, the investigating officer has recorded the statements of various witnesses showing that

they were called by one Rahul and they were taken to various hotels for prostitution business. On the basis of the same, the police have arraigned the present applicants as an accused.

3. It is submitted by Mr. A.C. Jaltare, learned counsel for the applicant, that as far as the present applicants are concerned, who are owners of the hotel Royal Inn, were not aware about these activities as the co-accused Rahul has only obtained the rooms from them, and he has provided the same rooms to the various girls for prostitution purpose. As far as further incarceration of the applicants is concerned, which is not required, in view of that, they be released on bail.

4. Learned APP strongly opposed the said application and submitted that during the investigation, it revealed that the hotel of the present applicants was used for the prostitution business, and the role of the present applicant is a vital role in view of that the application deserves to be rejected.

5. After hearing learned counsel for the applicants and learned APP for the State, perused the investigation papers and the various statements of the victims. From which, it reveals that the victims were brought by the co-accused, Rahul, who is working as a broker, and they were taken to various hotels for prostitution purposes, and the customers who paid the amount were transferred to the said girl. As far as the present applicants are concerned, their role is only to the extent that girls were found in their hotel rooms. As far as the calling of the girls and the economic gain by the

prosecution is concerned, the applicants are not concerned with them. While considering the bail application, the guidelines issued by the Division Bench of this Court in the case of *Freedom Firm vs Commissioner of Police, Pune and others in Criminal P.I.L No. 04/2015 decided on 30th October 2015*, is to be taken into consideration. Wherein the guidelines issued are that while considering the application for bail, the following facts must be taken into account;-

- (1) The fundamental right of the victim not to be trafficked.
- (2) The antecedents of the accused - the trafficker would be easily seen to have been earlier apprehended and arrested. Such accused are habitual offenders.
- (3) 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.
- (4) 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 the evidence.
- (5) 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.
- (6) The violence involved in the case reflected from the statement of the victim and the other witnesses.

6. It is further observed by the Division Bench, the bail should be denied to habitual offenders except upon exceptional, special, and compelling reasons upon the most stringent conditions. Bail should be refused to the brothel owner until the brothel is closed and sealed under Section 18 of the Immoral Traffic (Prevention) Act. 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.

7. In the light of the above guidelines issued in a criminal public interest litigation, if the facts of the present case are taken into consideration, admittedly, the present applicants are not directly involved in the prostitution; they are only hotel owners, wherein the co-accused has used the said rooms for the said prostitution. Thus, considering the material collected during the investigation, as the present applicants are not directly involved in the trafficking act, their bail application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

- a) The criminal application is allowed.
- b) The applicant – Maoj Arun Khandare, (2) Sanket s/o Vishnu Titarmare (3) Sagar s/o Madhukarrao Bijwe shall be released on bail, in connection with Crime No. 432/2024 registered with Police Station MIDC, District Nagpur for the offence punishable under Sections 370 read with Section

34 of the Indian Penal Code, 1860 and Sections 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956, on executing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.

- c) The applicants shall attend the concerned police station twice in a month before the investigating agency on 1st and 15 day of every month and shall cooperate with the investigating agency, till culmination of the trial.
- d) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- e) The applicants shall not indulge in criminal type of activities in future.

The application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]