



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1171 OF 2025

Babasaheb Bhimraj Chaudhari
Age : 60 years, Occ : Business,
R/o Nimgaon Korhale,
Tq. Rahata, Dist. Ahilyanagar/Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra
Through Principal Secretary
Home Affairs Department,
Mantralaya, Mumbai.
2. Sub-Divisional Officer/
Sub-Divisional Magistrate,
Shirdi, Tq. Rahata,
Dist. Ahmednagar/Ahilyanagar.
3. Police Inspector,
Shirdi Police Station,
Shirdi, Tq. Rahata,
Dist. Ahmednagar/Ahilyanagar.
4. Dipak Aatmaram Nimbalkar
Age : 32 years, Occ : Business,
R/o Kolpewadi, Tq. Kopargaon,
Dist. Ahmednagar/Ahilyanagar.
5. Bhausahab Sahebrao Jagtap
Age : 41 years, Occ : Business,
R/o Nimgaon Korhale,
Tq. Rahata, Dist. Ahmednagar/Ahilyanagar.

..RESPONDENTS

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Mr. R.L. Kute, Advocate for the petitioner.
Mr.A.S. Shinde, APP for the respondent/State.

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**CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL-JADHAV, JJ.**

**RESERVED ON : 10th OCTOBER, 2025
PRONOUNCED ON : 17th OCTOBER, 2025**

JUDGMENT (PER VAISHALI PATIL-JADHAV, J) :

Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. The challenge in this petition is to the order dated 18.07.2025 passed by respondent no.2 – Sub-Divisional Magistrate under Section 18(1) of the Immoral Traffic (Prevention) Act, 1956 (Hereinafter referred to as “PITA Act”) in proceedings bearing No. Kavi/Penalty/105/2025, whereby respondent no.2 has directed evacuation and closure of the petitioner’s hotel "Sai Sheetal" situated at Nimgaon Korhale, Tq.Rahata, Dist. Ahilyanagar for a period of one year.

3. According to the petitioner, he and one Rajendra Sitaram Gadekar are owners of hotel Sai Sheetal Guest House comprising of 24 rooms situated at village Nimgaon, Tq. Rahata, Dist. Ahilyanagar. From last 10 to 11 years, respondent no.5 is running the hotel on leave and license basis for a period of eleven months and for each year, fresh

leave and license agreement was executed. Last lease period is November, 2024 to October, 2025. On 06.05.2023, F.I.R. bearing Crime No.321/2023 came to be registered against the petitioner, one Rajendra Gadekar and respondent no.5 at Shirdi Police Station under Sections 3, 4, 5, 7 and 8 of the PITA Act, 1956 and in the said offence, the petitioner got anticipatory bail.

4. The present petitioner received show-cause notice dated 03.07.2025 issued by the Sub-Divisional Magistrate giving reference of Crime No.321/2023 and asking explanation as to why action should not be taken against the hotel Sai Sheetal Lodging under Section 18 of PITA Act. The petitioner replied the said notice on 08.07.2025 stating that the offence was registered in the year 2023 and the petitioner has no concern with the said offence. It was also stated that the said premises is given on leave and license basis to respondent no.5 and therefore, requested not to take action against the hotel. On 01.08.2025, the son of the petitioner received notice dated 30.07.2025 along with the impugned order dated 18.07.2025 by which hotel of the petitioner is directed to be closed down. In the said order, there is

reference of registration of another Crime No.499/2024 under Sections 3, 4, 5, 7 and 8 under the PITA Act against respondent no.5 on 11.09.2024 in Shirdi Police Station. Therefore, it is the case of the petitioner that the impugned order is passed behind the back of the petitioner, without giving opportunity of hearing and hence requested to quash and set aside the impugned order.

5. Heard learned Advocate for the petitioner and learned A.PP for respondent nos. 1 to 3.

6. Learned advocate for the petitioner submitted that the petitioner was surprised to see the order dated 18.07.2025 as the said order was passed only against respondent nos.4 and 5 and there is no mention of name of present petitioner and name of respondent no.5 is mentioned as owner of the hotel. Before passing the impugned order no notice was served on the petitioner and no hearing was given to him, therefore, the principles of natural justice are violated and hence the impugned order should be quashed.

7. Per-contra, learned APP supported the order and prayed that no interference is called for in the impugned order as under Section 18(1) of the PITA Act no notice is required to be served on owner of the premises and notice is rightly issued to respondent no.5 as the lessee of the said premises.

8. With the able assistance of learned advocate for the petitioner and learned APP for the State, we have perused the petition and documents annexed with the same. We have also perused the investigation papers produced by the learned APP and the impugned order.

9. Relevant provision of Section 18(1) of the PITA Act is as follows :-

“18. Closure of brothel and eviction of offenders from the premises, - (1) A Magistrate may, on receipt of information from the police otherwise, that any house, room, place or any portion thereof within a distance of two hundred meters of any public place referred to in sub-section (1) of Section 7, is being run or used as a brothel by any person, or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord of such house, room, place or portion or the agent of the owner, lessor or landlord or on the tenant, lessee, occupier of or any other person in charge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper user thereof, and if after hearing the person concerned, the Magistrate is satisfied that the house, room, place or

portion is being used as a brothel or for carrying on prostitution, then the Magistrate may pass orders.

(a) directing eviction of the occupier within seven days of the passing of the order from the house, room, place or portion;

(b) directing that before letting it out during the period of one year or in a case where a child or minor has been found in such house, room, place or portion during a search under Section 15, during the period of three years, immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the Magistrate;

Provided that, if the Magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper user therein.”

10. Section 18(1) contemplates issuance of notice to the owner, lessor or landlord of the premises asking explanation as to why premises should not be attached for improper user thereof and the Magistrate can pass the order after hearing the person concerned. Admittedly, before issuing the impugned order dated 18.07.2025, no notice was served on the petitioner and no opportunity of hearing is given to the

petitioner. In the impugned order, there is reference of notice dated 24.04.2025. Admittedly, the said notice was never served on the petitioner. Therefore, the order is passed in clear violation of principles of natural justice and on that ground alone the impugned order cannot be sustained. Hence, the following order :

ORDER

- (i) The petition is allowed.
- (ii) The order dated 18.07.2025 passed by respondent no.2 - Sub-Divisional Magistrate under Section 18(1) of the Immoral Traffic (Prevention) Act, 1956 in proceedings bearing outward No. Kavi/Penalty/105/2025 is hereby quashed and set aside.
- (iii) Proceeding bearing outward No.Kavi/Penalty/105/2025 is remanded back to the Sub-Divisional Magistrate, Shirdi, who shall after giving opportunity of hearing to the petitioner and other concerned, pass appropriate orders on merits within a period of six weeks from the date of receipt of this order.
- (iv) Rule is made absolute in above terms.

(VAISHALI PATIL-JADHAV, J)

(NITIN B. SURYAWANSHI, J)