

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2805 OF 2024

Shahraj Ali @ Sonu Irshad Ali Sayyed ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

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Mr. Prabhakar Tripathi with Shubham Upadhyay and
Vinayak S. Behal for the applicant.

Ms. Shilpa G. Talhar, APP for the State-respondent
No.1.

Ms. Ilsa Sabir Shaikh for respondent No.2 (Appointed
as Legal Aid Counsel).

Jagtap, PSI, Turbhe Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 5, 2025

PC.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant is seeking regular bail in connection with Crime No. 299 of 2023 registered with Turbhe Police Station for offences punishable under Sections 366(A), 370(1)(4), and 372 of the Indian Penal Code, 1860, and under Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

2. The case of the prosecution, in brief, is that on 24th August 2023, one Police Naik, Shri Rohit Keshav Rathod, lodged a report alleging that on the previous day, i.e., 23rd August 2023, while he

was present at the police station, the Senior Police Inspector, Shri Daundkar, informed him and the other staff members that reliable information was received regarding one agent named Sonu who was allegedly offering a minor girl to a customer for the amount of ₹1,50,000/-. The said information was also conveyed to the Assistant Commissioner of Police, Turbhe Division, Shri Gaikwad, who directed that an inquiry be initiated.

3. Accordingly, pre-trap arrangements were made. Two panch witnesses and one dummy customer were called and their names were recorded. All were made aware of their respective roles. A WhatsApp call was made from the mobile phone of the dummy customer to the number of Sonu at around 4:41 p.m., during which Sonu allegedly confirmed the deal for ₹1,50,000/- in exchange for providing a minor girl. As per the arrangement, Sonu called the dummy customer to meet him near Hotel Suyog, Mahape MIDC at 7:00 p.m.

4. The police prepared the pre-raid panchnama and marked currency notes were kept in an envelope to be used in the trap. Around 7:10 p.m., one man came to the said spot on a motorcycle and was followed by an auto-rickshaw carrying a lady and a minor girl. After some discussion between the motorcycle rider and the lady, the dummy customer approached them. Sonu allegedly gave a signal to the lady and the girl to follow the dummy customer, and in turn, the dummy customer handed over the envelope containing the marked notes to the man on the motorcycle.

5. Immediately, the police apprehended the said person and

found the envelope with the marked currency in his possession. Upon inquiry, he disclosed his identity as Sonu. The lady accompanying the girl was also detained and revealed her name as Nisha Khan. The girl, upon questioning, stated that she was 17 years old. Since the incident occurred in a public place, to avoid inconvenience, the panchnama was completed at the police station. On further inquiry, it appeared that the lady was compelling the minor girl to engage in physical relations against her will. It was thus alleged that Sonu and the said lady were exploiting the minor girl and using her for commercial sexual exploitation for a consideration of ₹1,50,000/-. On this basis, the present crime was registered.

6. The learned advocate for the applicant submitted that the applicant is falsely implicated and deserves to be released on bail. He drew attention to the order passed by the Co-ordinate Bench of this Court in Bail Application No. 797 of 2024, by which the victim's mother has already been granted bail, with a prima facie observation that the victim may not be a minor at the relevant time. He further submitted that, as per the prosecution's own case, the inducement originated from the mother of the victim, and not from the applicant. He also submitted that under Section 370 of the IPC, the requirement is that the accused must have control or custody of the victim, which is not made out in the present case. It is contended that the applicant has no previous criminal record and has been in custody since 24th August 2023. It is further submitted that the investigation is complete and charges are yet to be framed. On these grounds, the applicant prays for release on

bail.

7. On the other hand, the learned APP and the learned counsel appointed to represent the victim strongly opposed the bail application. It is contended that the statement of the victim clearly discloses the active role of the applicant in the entire transaction. It is submitted that the applicant had contacted the mother of the victim and was in communication through messages regarding the monetary transaction. It is further pointed out that the medical report shows that the victim's age is between 15 to 16 years, with a margin of six months, which supports the prosecution's case that the victim was a minor. On these grounds, it is argued that considering the serious nature of the offence and the material on record, the applicant does not deserve the concession of bail.

8. I have carefully considered the rival submissions advanced by the learned counsel for the applicant, the learned APP for the State, and the learned advocate appointed for the victim. I have also gone through the FIR, the statement of the victim, the panchnama, and the medical report placed on record.

9. It is not in dispute that the applicant has been in custody since 24th August 2023. It is also not disputed that the investigation is complete and the charge sheet has been filed. There is nothing on record to indicate that the applicant has any past criminal record or that he is likely to abscond or tamper with the prosecution evidence if released on bail.

10. The main allegation against the applicant is that he was found at the spot where the alleged transaction involving a minor

girl was taking place and that he had accepted the money from the dummy customer. However, the role attributed to the applicant is largely based on the trap arranged by the police and the version of events narrated by them. The final determination as to whether the applicant had control over the victim and whether he was part of any organized human trafficking racket would require detailed appreciation of evidence at trial.

11. Furthermore, the Co-ordinate Bench of this Court, while granting bail to the mother of the victim, has prima facie recorded a finding that the age of the girl is in dispute. The medical report gives her age in the range of 15 to 16 years with a margin of six months, which means there exists a possibility that the girl was close to attaining the age of majority. Whether the victim was in fact a minor and whether the offence under Section 366(A) or Sections 370 and 372 of IPC is made out will be a matter for trial and cannot be conclusively determined at this stage.

12. At this stage, it is also relevant to note that the applicant is a first-time offender. No overt act of coercion or use of force by the applicant upon the victim is alleged. The role of the co-accused and particularly the mother of the victim appears to be more central to the inducement, as per the defence version which also finds some prima facie support from the bail order in favour of the mother.

13. In such circumstances, taking into account the period of incarceration already undergone by the applicant, the absence of any criminal antecedents, and the fact that trial may take

considerable time, I am of the opinion that further incarceration of the applicant is not warranted. The possibility of the applicant misusing his liberty can be curtailed by imposing stringent conditions.

14. Hence, the following order is passed.

(A) The applicant Shahraj Ali @ Sonu Irshad Ali Sayyed shall be released on bail in connection with Crime No. 299 of 2023 registered with Turbhe Police Station for offences punishable under Sections 366(A), 370(1)(4), and 372 of the Indian Penal Code, 1860; and Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 on furnishing PR bond of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the Trial Court.

(B) The applicant shall cooperate with the Trial Court and attend the proceedings regularly.

(C) The applicant shall not tamper with the evidence in any manner. The applicant shall not influence the informant, witnesses or any other persons concerned with the case.

(D) The applicant shall upon release immediately inform the Investigating Officer about her Contact number and residential address and update the same in case of any change.

(E) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

15. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)