

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3497 OF 2024

Neelam Ajitkumar Sansi @ Nagma @ Jasprit .. Applicant
Versus
The State of Maharashtra and Anr. .. Respondents

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- Mr. Tanmay Tukaram Jadhav a/w. Mr. Nikhilesh D. Pote, Mr. Akshay More and Mr. Amey Ajgaonkar, Advocates for Applicant.
 - Mr. Balraj B. Kulkarni, APP for Respondent No.1 – State.
 - Ms. Antara Kulkarni, appointed Advocate for Respondent No.2.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 06 , 2025

P.C.:

1. Heard Mr. Jadhav, learned Advocate for Applicant; Mr. Kulkarni, learned APP for Respondent No.1 – State and Ms. Kulkarni, learned appointed Advocate for Respondent No.2.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short ‘**Cr.P.C.**’) seeking Regular Bail in connection with FIR No.201 of 2024 registered with Navghar Police Station for offences punishable under Sections 366-A, 370(3), 372 of Indian Penal Code, 1860 (for short ‘**IPC**’); Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 and Sections 17 and 18 of Protection of Children from Sexual Offences Act, 2012 (for short ‘**POCSO Act**’) and Sections 81 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

3. The Applicant has been apprehended and arrested on 29.03.2024 and is in custody for the past 11 months and 6 days. First Informant – API Umesh Hari Patil attached to Anti-Human Trafficking Cell, Mira-Bhayander-Vasai-Virar Police Commissionerate has stated that on 28.03.2024 he received secret information that Neelam Ajitkumar Sansi @ Nagma Khan (present Applicant) is involved in providing major and minor girls for prostitution and hence they decided to verify the said secret information by conducting raid. It is alleged that accordingly bogus customer- Abhishek Korpe made a phone call and Whatsapp message to Applicant and made inquiry about an escort and they finalised their meeting at Aqua Family Resto Bar. Trap was laid at Aqua Family Resto Bar and police raiding party raided the location and intercepted the Applicant and three victims including one minor girl. Based on the above, offence came to be registered.

4. Mr. Jadhav, learned Advocate for Applicant would submit that Applicant has been falsely indicted in the present crime and there is no cogent, convincing and reliable evidence against the Applicant. He would submit that Applicant is running a Spa business and has no criminal antecedents to her discredit. He has drawn my attention to the FIR and would submit that FIR is filed by a third person and not by the bogus customer and hence is based on hearsay which raises doubt on the prosecution case. Next he has invited my attention to the

statements of 2 eye-witnesses / independent witnesses recorded by the investigating officer i.e manager and waiter of the Aqua Family Resto Bar which are at page Nos.181 and 182 of the Application and would submit that the same does not utter about the alleged incident narrated in the FIR and charge-sheet. He would submit that the statement of the minor victim at page No. 146 does not in any manner reveal that Applicant forced them to do any alleged act or that she intended to supply them for the same to some customers. He would submit that investigation of the matter is completed and charge-sheet is filed and hence would submit that custodial interrogation of the Applicant is not necessary and would pray for enlargement of Applicant on bail.

5. Mr. Kulkarni, learned APP has invited my attention to the material compiled in the charge-sheet and would submit that the same reveals that raid was conducted on receiving secret information. He would draw my attention to the Whatsapp photograph and CDR in nature of Whatsapp calls appended at page No.77 to submit that Applicant and witnesses were in constant contact with each other during the said time which is evident from the timing of the outgoing calls in the afternoon of 28.03.2024. He would vehemently submit that obtaining Adhaar card of victims by Applicant was a step taken by her to involve them into the offence. I have perused the Whatsapp chats which are appended from page Nos.69 to 79 of the Application. He

would submit that there is recovery under Section 27 of the Indian Evidence Act, 1872 of two Mobile handsets, cash amount, one wallet, Aadhaar card, PAN card, etc from the possession of the Applicant. He would submit that the statements of the three victim girls recorded before the police and the 164 statements corroborate with each other and hence *prima facie* they establish the complicity of Applicant in the present crime. Hence he would urge for rejection of the Bail Application.

6. Ms. Kulkarni, learned appointed Advocate for Respondent No.2 has adopted and supported the submissions of Mr. Kulkarni and in addition thereto has drawn my attention to the Whatsapp communication between the said witnesses / victims and the Applicant and would submit that if the same are seen and read they give an inclination of something sinister in the happening. She would submit that it is clear that Applicant is targeting the vulnerable girls who are in need of money by luring them and offering them money as in the present case, and she has taken advantage of their poor financial condition and induced them to accompany her for committing of the acts. Hence she would pray for rejection of the Application.

7. In the present case it is the case of prosecution that the Applicant induced the victims girls for prostitution for her own benefit. That She sent the photographs of the two major and one minor girl to

the customer on Whatsapp for providing them for prostitution by accepting money. There are statements of other raiding party members which are corroborated by Whatsapp chats. However in the statements of victims u/sec.161 of Cr.P.C i.e Statement of the minor appended at Page No.146 she has stated that the date of incident was 27.03.2024 when she was summoned by Applicant to meet her at Bandra on 28.03.2024 and when she went there, at that time there were two other girls who were present with Applicant and they all four got into an autorickshaw and reached the particular spot namely incident spot which is referred to as the restaurant in Bhayander. The reason which was given to the said witness by Applicant was to attend a party which is also corroborated by the statement of the second witness appended at page No.147. However the second witness has stated that on 27.03.2024 she was informed on phone by Applicant that the event / party was to be done on the following day for which she would be paid substantially and therefore the second witness agreed and met her on the following day i.e. 28.03.2024 alongwith her friend who is the third witness at Bhayander Station. She has stated that Applicant and the two of them reached the station and from there they went to the alleged incident spot namely restaurant by autorickshaw. The third witness's statement is appended at page No.148. She has stated that she was also informed on phone on 27.03.2024 and agreed to the offer made by Applicant and in reciprocation she sent her photograph to her

as she was promised Rs.8,000/- for attending the said party / event. She has however stated that on 28.03.2024 in the afternoon she met the Applicant incidentally at Bhayander station and the second witness was accompanying her at that time. Both second and third witnesses have not made any reference to the said witness namely minor girl. *Prima facie* if the above statement are seen of the three victims there is a clear dichotomy in the versions narrated by them of the alleged incident.

8. *Prima facie*, when statements of all three witnesses / victims recorded before the police officer and their Section 164 statements are juxtaposed, it is seen that they are at complete variance with each other. In the statement of the minor victim / witness, she has stated that she went to Bandra station and there the Applicant and other two girls were present. However the third witness statement records that she met all of them at Mira Road station. All the three witnesses in their 161 statement state that they reached Bhayander by autorickshaw and from there went to Aqua Family Resto Bar, but in the Section 164 statements they have stated that from Mira Road station they took an autorickshaw. *Prima facie* on the basis of some Whatsapp photographs and CDR, nothing can be concluded at the *prima facie* stage since as held by the Supreme Court in the case of: (i) ***State Vs. Pallulabid Ahmad Arimutta***¹ (ii) ***Bharat Chaudhary Vs. Union***

¹ SLP (Cri) No. 3242/2022 decided on 10.01.2022

of India ²(iii) *Mohd. Hussain Ahmed Shaikh @ Babool Bhai Vs. State of Maharashtra.* ³

9. In view of the above *prima facie* findings, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs. 25,000/- and is permitted to furnish sureties as directed within a period of four weeks after her release from prison;
- (iii) Applicant shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 a.m. to 12:00 noon for the first three months and thereafter as and when called;
- (iv) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if she does so, it will entitle the prosecution to apply for cancellation of this order;

² (2021) 20 SSC 50

³ Bail Application No.2000 of 2023 decided on 09.05.2024

- (v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vi) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vii) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time; and
- (viii) Any infraction of the above conditions shall entail cancellation of this order.

10. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case.

11. Court appreciates the assistance rendered by the learned appointed Advocate in the matter to the Court. Her fees shall be released by the Legal Aid Department on due compliance.

12. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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by AJAY
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