

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3497 OF 2024

Neelam Ajitkumar Sansi alias Nagma alias
Jasprit

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondents

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- Mr. Nikhilesh D. Pote a/w. Mr. Tanmay T. Jadhav, Advocates for Applicant.
- Mr. Balraj B. Kulkarni, APP for Respondent No.1 – State of Maharashtra.
- Ms. Antara Kulkarni, Advocate for Respondent No.2 (appointed through Legal Aid Committee).

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 11, 2025

P.C.:

1. Heard Mr. Pote, learned Advocate for Applicant; Mr. Kulkarni, learned APP for Respondent No.1 – State of Maharashtra and Ms. Kulkarni, learned Advocate for Respondent No.2 appointed through Legal Aid Committee.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with First Information Report No.201 of 2024 registered with Mira Bhayander Police Station for offences punishable under Sections 366-A, 370(3), 372 of the Indian Penal Code, 1860 (for short 'IPC'); Sections 4 and 5 of the The Immoral Traffic (Prevention) Act, 1956

and Sections 17 and 18 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO') and Sections 81 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

3. Applicant is indicted under very serious provisions as can be seen from the above. The material which is placed before me is two fold.

4. Firstly the prosecution is referring and relying upon statement of witnesses. In this case witnesses are the alleged victim of the crime according to the prosecution. Three specific statements of witnesses who are present alongwith Applicant at the incident spot are recorded on 29.03.2024. They are appended at page Nos.146, 147 and 148 of the Application. The charge of the prosecution emanates from these very statements.

5. *Prima facie*, when these statements are read all three statements are at complete variance with each other. Statement of minor appended at page No.146 states that date of incident was 27.03.2024 when she was summoned by Applicant to meet her at Bandra where she went and at that time there were two other girls who were present with Applicant and they all four hired a rickshaw from Bandra and reached the particular spot namely incident spot probably which is referred to as restaurant in Bhayander. The reason which is given to the said witness was to attend a party which is also

echoed by the statement of second witness appended at page No.147.

6. However the second witness had stated that on 27.03.2024 she was informed on phone by Applicant that event / party work was to be done on following day for which she would be paid substantially and therefore the second witness agreed and met her following day i.e. 28.03.2024 alongwith her friend who is the third witness at Bhayender Station. She states that Applicant and the two of them reached by the station and from there, they went to alleged incident spot namely restaurant.

7. The third witness's statement is appended at page No.148 and she however states 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 and she was promised Rs.8,000/- for 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 second witness was accompanying her at that time. Both second and third witnesses have not made any reference to the said witness namely minor.

8. Ms. Kulkarni, learned Advocate for Respondent No.2 would draw my attention to the *whatsapp* communication addressed between the said witnesses and Applicant and would submit that if the same are seen and read they give an inclination of something sinister in the

happening.

9. Mr. Kulkarni, learned APP has drawn my attention to the *whatsapp* photographs 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 timing of outgoing calls in the afternoon of 28.03.2024. He would vehemently submit that obtaining Aadhar Cards of victims by Applicant was a step taken by her to involve them into offence. I have perused the same which are appended from page Nos.69 to 79 of the Application.

10. *Prima facie, per se* on the basis of some *whatsapp* photographs and alleged CDR, nothing can be concluded at this stage. The statements of witness No.2 clearly shows that few days prior to the date of incident, Applicant had infact stayed with her in her own house for few days when she had a quarrel in her own house. The apparent dichotomy in the statement of the three victims noted above who are witnesses in the present case is *prima facie* seen by the Court.

11. Mr. Kulkarni would persuade the Court to permit him to take any instructions if there is any material to lead to the incident and the crime in question.

12. At the request of Mr. Kulkarni, stand over to **20th February, 2025 at 02:30 p.m.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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