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

CRIMINAL BAIL APPLICATION NO. 3624 OF 2024

Pravin Eknath Salunkhe

.. Applicant

Versus

The State of Maharashtra & Anr.

.. Respondents

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- Mr. Prabhanjay R. Dave a/w. Mr. Pradeep Kumawat and Mr. Anish Jadhav, Advocates for Applicant.
- Mr. Dinesh J. Haldankar, APP for Respondent No.1 – State.
- Mr. Saurabh Butala, Appointed Advocate for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 15, 2025.

P.C.:

1. Heard Mr. Dave, learned Advocate for Applicant; Mr. Haldankar, learned APP for Respondent No.1– State and Mr. Butala, learned Advocate appointed to espouse and represent the cause of Respondent No.2.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R. No.122 of 2023 registered with Vashi Police Station for offences under Sections 370 readwith 34 of the Indian Penal Code, 1860 and Sections 3, 4 and 5 of the Immoral Trafficking (Prevention) Act, 1956 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. Applicant in the present Bail Application is arraigned as Accused No.2. He is the husband of Accused No.1 – the principal accused in the present crime. Case of prosecution is that Applicant in conjunction with Accused No.1 i.e. his wife are engaged in prostitution and supply of minor girls to customers. On 04.04.2023 both Applicant and Accused No.1 were arrested. By order dated 13.01.2025 Accused No.1 has been released on bail by the Sessions Court. Present Applicant – Accused No.2 has therefore approached this Court for bail.

4. According to prosecution case as argued by the learned APP and the learned appointed Advocate Mr. Butala, the Applicant has indulged in the crime in conjunction with his wife and the said crime being against society at large he should be kept behind bars. Facts leading to arrest of Applicant are such that on 03.04.2023 the police got credible information that Accused No.1 was actively involved in providing minor girls for prostitution to customers by charging a hefty consideration. Prosecution therefore laid a trap through a dummy customer with whom Accused No.1 entered into a conversation and she agreed to provide three victim girls and decided on a pre-disclosed location for meeting the three victim girls near Green Space Building for consideration of Rs.35,000/-. According to prosecution Accused No.1 arrived at the said spot alongwith three victim girls in an auto-rickshaw, met the dummy customer and the three victim girls alongwith Accused No.1 sat in the car of the dummy customer upon

which the prosecution team was alerted and the Accused No.1 alongwith the three girls were apprehended by the police. According to prosecution, one victim girl was 18 years 10 months old, second victim girl was 20 years 10 months old whereas the third victim girl was 17 years 11 months old. According to prosecution case when the Accused No.1 alongwith the victim girls were apprehended, at that time present Applicant was following the dummy customer's car on his motorcycle and he was also apprehended at that time. All three girls recorded their statements. *Prima facie* it is borne out from record that the minor victim girl aged 17 years 11 months is untraceable and there is no *prima facie* proof of her age neither there is any document about her age placed on record in the charge-sheet, however there is an Ossification Test Report of the said girl which records her age as 17 years 11 months.

5. Case of prosecution against Applicant is *prima facie* and primarily based upon the recorded statements of the three victim girls. Their Section 164 statements are appended at page Nos.56, 58 and 60 of the Application. Advocates for both sides have read these statements and persuaded the Court to decipher them in favour of their respective submissions.

6. According to Mr. Dave, all three statements when read do not indicate complicity of Applicant having any nexus or role in the

present crime or for that matter having even known the three victim girls as per their versions. However this submission of Mr. Dave is refuted by prosecution and Mr. Butala and they would contend that reference to Applicant being husband of Accused No.1 as appearing in the three statements of the victim girls should be inferred by the Court as he being complicit in the present crime.

7. Thus *prima facie* save and except the three statements of the victim girls, there is no other incriminating material against Applicant placed on record at this stage other than his arrest from the incident spot which would show that he was involved in the crime alongwith the Accused No.1. *Prima facie* it is seen that first victim girl in her statement in so far as the present Applicant is concerned without naming him or attributing any specific role to him *qua* the present crime has stated that Accused No.1 used to stay alongwith her husband i.e. Applicant and he and Accused No.1 used to sit in the hall. In so far as the second victim girl is concerned in her statement at page No.58, she has stated that Accused No.1 used to stay with her husband i.e. Applicant whereas the third victim girl namely minor girl has stated that Accused No.1 was her neighbour previously and she was well acquainted with her and in her house she stayed with her husband. *Prima facie* I find that the aforementioned reference is the only reference to the Applicant in the three statements of the victim girls for Applicant's indictment in the crime.

8. It is contended by the Applicant's Advocate that apart from the aforesaid statements which are recorded there is no other incriminating material against the Applicant. I have read the three statements and perused the record of the case. On reading the three statements as they appear, I cannot form an opinion that the Applicant is instrumental in inducing, luring, threatening and/or forcing any of the three victim girls into the present alleged offence. Rather on reading the three statements rather it is *prima facie* seen that the three victim girls on the basis of their association with Accused No.1 have stated that they have willingly participated in the unfortunate incident due to their personal need for money which they used to receive from Accused No.1.

9. Hence from the *prima facie* material made available before the Court *qua* the alleged role of Applicant and compared with the role of Accused No.1 which *prima facie is far greater* in the alleged offence and Accused No.1 having been released on bail by the Sessions Court, and the ignominy of Applicant's incarceration pending trial for more than 2 years, no charge framed and certainty of trial being completed being a distinct impossibility in the near foreseeable future, custody of the Applicant is not required and he can be released on bail. Bail Application of Applicant is therefore allowed on 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) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (v) 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 he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vi) Applicant shall not leave the State of Maharashtra

without prior permission of the Trial Court and deposit his passport, if any, with the concerned Investigating Officer;

(vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

10. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

11. Fees of the learned Advocate Mr. Butala, learned Advocate appointed through Legal Aid to represent and espouse the cause of Respondent No.2 shall be released by the Registry of this Court within a period of one week from the date of presentation of a server copy of this order on compliance.

12. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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