

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

ANTICIPATORY BAIL APPLICATION NO. 3136 OF 2024

Mahesh Devram Dherange ...Applicant
Versus
The State of Maharashtra And Anr. ...Respondents

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Mr. Rahul Yadav, Advocate for the Applicant.

Ms. Geeta P. Mulekar, A.P.P. for the Respondent – State.

Mr. Somnath J. Kachare (PSI), Shikrapur Police Station, Pune Rural,
present.

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CORAM : N. R. BORKAR, J.
DATE : 24th JANUARY, 2025.

P.C.:

1. This is an application for anticipatory bail.
2. This Court on 26th November 2024 had passed the
following order :

“ . Heard learned counsel appearing for the applicant and learned APP appearing for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0554 of 2023 dated 15.06.2023 registered at Shikrapur Police Station, District - Pune Rural for offences under Sections 370(2) read with 34 of Indian Penal Code, 1860 (IPC), under Sections 4, 5, 6, 7, and 8 of Immoral Traffic (Prevention) Act, 1956 and under Sections 16 and 17 of Protection of Children from Sexual Offences Act, 2012.

3. As offences under POCSO Act are also registered in the present case, notice will have to be issued to respondent No.2. But, the learned counsel for the applicant is pressing for interim relief.

4. The FIR shows that the named accused persons were alleged to be carrying on the business of prostitution in a particular premises. The victim named the three accused persons and hence they were arrested. The applicant was added as an accused subsequently, primarily on the ground that he is the owner of the premises where the lodge was being run. The named accused persons were carrying on the business of prostitution from the said premises.

5. The learned counsel for the applicant submits that the applicant had no knowledge of the activities that were being carried out by the co-accused persons. It was submitted that unless there was material to show that the applicant was willfully part of such activities, he cannot be hauled up for the offences registered in the present case.

6. The learned APP submits that the order of the Sessions Court shows that the applicant was enjoying interim relief during the pendency of the application before the Sessions Court. But, since he did not co-operate with the Investigating Officer despite allegations concerning such serious offences, there was no alternative for the Court but to dismiss the application.

7. This Court is of the opinion that although there is substance in the contention regarding lack of co-operation on the part of the applicant, but, since the allegation against the applicant is that he is the owner of the premises where such activities were being undertaken, there will have to be material to show that the applicant had knowledge that such activities were being undertaken in the said premises.

8. Section 3(2) and 2 (A) of the Immoral Prevention Act, 1956 indicate that there can be a presumption of knowledge on the part of the owner of premises like the applicant herein, if specific conditions

stipulated in clauses (a) and (b) of Section 3(2) (A) of the said Act are satisfied. The material on record at this stage does not indicate such material and it is to be noted that none of the victims took the name of the applicant in their statements. Therefore, this Court is inclined to grant interim relief to the applicant.

9. It is made clear that if the applicant does not co-operate with the Investigating Officer and such report is received on the next date, the application will be dismissed.

10. In view of the above, issue notice to respondent No.2 returnable on 7th January 2025, High on Board.

11. In the meanwhile, the following interim order is passed:-

A. Till the next date, in the event the applicants are arrested in connection with FIR No.0554 of 2023 dated 15.06.2023 registered at Shikrapur Police Station, District - Pune Rural, he shall be released on bail on furnishing PR Bond of Rs.50,000/- and one or two sureties in the like amount;

B. The applicant shall appear before the investigating officer on 28.11.2024 and 29.11.2024, between 10.00 a.m. to 12 noon and thereafter as and when required by the investigating officer;

C. The applicant shall not influence the informant, witness or any person concerned with the case and he shall not tamper with the evidence.

12. Needless to say, violation of any of the aforesaid conditions may result in this order being cancelled.

13. List on 7th January 2025, High On Board.”

3. The learned A.P.P. submits that admittedly the applicant is the owner of the lodge in question. It is submitted that the applicant is resident of the same village and therefore,

it will have to be presumed that the applicant was aware of the alleged activities.

4. On the other hand the learned counsel for the applicant submits that the applicant was not running the lodge in question but it was co-accused Vishal Kolekar to whom it was given on leave and license. In support of the submission, the learned counsel for the applicant has produced on record leave and license agreement.

5. There is no incriminating material against the applicant except the fact that the lodge in question was owned by the applicant. In that view of the matter, the interim order passed by this Court dated 26th November 2024, is hereby confirmed.

6. The applicant shall attend the concerned Police Station as and when called by the Investigating Officer and shall co-operate with the investigation.

7. The application is disposed of accordingly.

(N. R. BORKAR, J.)