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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1074 OF 2025

Bithibegum Mustakin Khan @
Bithi Babu Gazi … Applicant

V/s.

The State of Maharashtra & Anr. … Respondents

Mr. Prabhanjay R. Dave with Mr. Pradeep P. Kumawat and Mr. Shankar Ambhure for the applicant.

Mrs. Rajashree V Newton, APP for respondent No.1-State.

Ms. Priyanka B. Chavan, for respondent No.2-victim (appointed as Legal Aid).

Mr. Amol Shinde, API, CBD Belapur Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 17, 2025

<u>P.C.</u>:

1. By the present application preferred under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks to be enlarged on bail in connection with Crime Register No.124 of 2024, registered with CBD Belapur Police Station. The said offence arises out of allegations attracting provisions of Sections 370 and 34 of the Indian Penal Code, 1860, Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956, Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), Sections 3 and 6 of the Passport Act, 1967, and Section 14(1) of the Foreigners Act, 1946.

2. As per the prosecution case, the First Information Report (FIR) came to be registered on the basis of a complaint lodged by a police constable, attached to the Anti-Human Trafficking Prevention Cell. The complainant has stated that on 15.06.2024, at about 13:00 hours, while he was present in the Cell office, directions were issued by the Senior Police Inspector to secure the presence of two panch witnesses. Pursuant thereto, two panchas were brought to the office.

3. It is further alleged that the Senior Police Inspector apprised the team as well as the panchas that they were being temporarily conferred the powers of “Special Police Officers” under the provisions of the Immoral Traffic (Prevention) Act, 1956, for the purposes of conducting a trap operation. The information received from a reliable informant was shared, according to which, a woman (accused no.1) was reportedly engaged in the illicit activity of procuring and supplying minor girls, aged approximately 16 to 17 years, to customers for the purpose of prostitution, operating from the Diva area in Thane.

4. The informant further conveyed that, on establishing contact with the mobile number of accused no.1, a deal had been struck for arranging two minor girls for a sum of ₹4,00,000/-. It was also informed that the modus operandi of the accused was to avoid hotels and lodges, and instead deliver the girls directly to the customer’s chosen location. In light of the said inputs, a trap operation was planned, wherein a bogus customer was already in communication with the said accused woman and was to act as a decoy for the intended raid.

5. It is the further case of the prosecution that the Senior Police Inspector, in the presence of the panch witnesses, proceeded to verify the WhatsApp communications on the mobile phone of the decoy, i.e., the bogus customer. Upon perusal of the mobile handset, it was revealed that chats and call records had indeed taken place between the said bogus customer and accused no.1. The said communications, including text messages and voice calls, were found to have occurred on 13.05.2024, thereby lending corroboration to the prior information received regarding the criminal activity being undertaken by accused no.1.

6. It is alleged that thereafter, the Woman Police Officer (W.P.O.) Inspector conducted a personal search of the bogus customer in the presence of panch witnesses, and no objectionable item was found on his person. The bogus customer, upon inquiry, expressed his inability to arrange an amount of ₹4,00,000/- immediately. In view thereof, and upon deliberations between the W.P.O. Inspector, the panch witnesses, and the bogus customer, it was mutually decided to arrange ₹4,000/- in cash from the official secret fund. For the remaining ₹3,96,000/-, a subterfuge was devised by using 792 blank papers cut in the size of currency notes, so as to simulate the appearance of genuine currency bundles.

7. The said officer further stated that for the purposes of creating a realistic impression, one genuine Indian currency note of ₹500/- was affixed on the top of each of the four bundles, and similar notes were placed at the bottom, while the blank note-sized papers were inserted in between. Photocopies of all eight genuine ₹500/- notes were taken in the presence of panch witnesses, and the said photocopies bore the signatures of both the W.P.O. Inspector and the panchas, thereby ensuring procedural transparency. Upon such preparation, the four dummy bundles were made to appear as genuine currency worth ₹1,00,000/- each and were handed over to the bogus customer in the presence of the panch witnesses. The said bogus customer kept the bundles in a black plastic bag and took possession thereof for the purposes of the trap.

8. A pre-raid panchanama came to be drawn, documenting all steps and preparatory measures undertaken for the purpose of the trap. Subsequently, the raiding party, comprising the Senior Police Inspector, W.P.O. Inspector, other staff, and the panchas, proceeded from the Cell office at around 14:30 hours in an official government vehicle bearing registration number MH 43 GC 3692 and two private motor cars. The team reached the main road adjacent to Jay Tower, Sector 15, leading towards Palm Beach Road at approximately 14:40 hours.

9. Upon arrival at the designated spot, and under the specific instructions of the Senior Police Inspector, the trap team discreetly positioned themselves near the footpath, ensuring concealment and surveillance. Vehicles were parked strategically so as to avoid detection. Thereafter, the bogus customer established contact with accused no.1 by initiating a WhatsApp call. During the said call, the accused informed that she was en route to the location in a red WagonR vehicle, which had been booked via the Ola cab service.

10. It is further the case of the prosecution that, shortly thereafter, at approximately 15:00 hours, a red-coloured WagonR vehicle, as earlier described by accused no. 1, arrived at the designated spot. One female occupant alighted from the said vehicle while the driver and two other women remained seated inside. The woman who stepped out of the vehicle approached and engaged in conversation with the bogus customer. In the course of the said interaction, the bogus customer handed over the black plastic bag, purportedly containing the currency bundles, to the said woman. Upon such transaction being completed, the bogus customer gave a pre-decided signal to the police team at around 15:05 hours, indicating that the deal had materialised.

11. Acting immediately upon the signal, the Senior Police Inspector, along with the trap team and in the presence of the second panch witness, swiftly moved towards the location and intercepted the woman who had stepped out of the vehicle. Simultaneously, the police team also apprehended the other two female persons who were seated inside the said WagonR vehicle. The apprehension was effected at around 15:10 hours, and all three women were detained for further inquiry.

12. During preliminary interrogation, their identities were sought to be ascertained. One of the three women initially disclosed her alias name and stated her age to be 19 years, claiming to be a resident of Bangalore, Karnataka. However, upon being counselled and questioned confidentially, the said girl disclosed her true identity, revealing that she was originally a native of Dhaka, Bangladesh. She further disclosed her actual date of birth as 19.10.2008. Thus, as on the date of the incident i.e., 15.06.2024, the girl was aged 15 years, 7 months, and 27 days, thereby confirming her status as a "child" and "minor" within the meaning of Section 2(1)(d) of the Protection of Children from Sexual Offences Act, 2012.

13. In the presence of the panch witnesses, the said minor victim gave a statement, wherein she disclosed that she was acquainted with the two other women who were apprehended—accused no. 1, Khushi Nahid Hasaan Aktar, and the other woman, accused no. 2. She stated that accused no. 1 had initially contacted the purported customer on the mobile phone and had sent her (the minor's) photographs to him. Upon the customer's approval, accused no. 1 instructed her to travel to Navi Mumbai. She further disclosed that they all travelled together by bus from Goa to Vashi, Navi Mumbai. After halting at a beauty parlour located in Diva, Thane, they proceeded to CBD Belapur with the intention of engaging in prostitution. The minor further stated that she was promised a sum of ₹1,00,000/- in return for providing sexual services, but she had no knowledge about the exact financial dealings between the bogus customer and her aunt and her friend. She also stated that the arrangements were made without her full understanding of the consequences or the monetary terms agreed upon by her aunt and the other woman.

14. Upon further inquiry conducted by API Ghorpade in the presence of the panchas, the identities of the remaining two women were verified. The first of them disclosed her name as Bithibegum Mustaqin Khan, also known as Bidhi Babul Ghazi, aged 27 years, originally hailing from Jatrabari, Sonia Haji locality, near Masjid, Dhaka, Bangladesh. She identified herself as the maternal aunt of the minor victim. The second woman disclosed her name as Khushi Nahid Hasan Akhtar, also known as Sona Patel, aged 26 years, a native of village Keraniganj, Shubh Adda, 1 No. Union, Dhaka, Bangladesh. She was stated to be a close associate and friend of the first accused. The involvement of both women in the act of procuring and trafficking the minor girl for prostitution was thus prima facie revealed.

15. Thereafter, the Senior Police Inspector, in the presence of panch witnesses, questioned accused no.1 regarding the receipt of the money handed over by the bogus customer. In response, accused no.1 produced a black-coloured plastic bag which she was holding in her right hand. Upon examination of the said bag, it was found to contain the eight currency notes which had earlier been provided to the bogus customer by the police and were duly recorded in the pre-raid panchanama. Thus, the recovery of the tainted money from accused no.1 lent further credence to the allegations of trafficking and prostitution.

16. Pursuant thereto, and in continuation of the procedural steps, the purse of accused no.1 was searched in the presence of panchas. During such search, one sealed and unused packet of condom bearing the brand name “Zaroor” was found, in addition to one mobile handset of Infinix make. Similarly, upon checking the belongings of accused no.2, namely the applicant herein, identified as Bithibegaum Mustaqin Khan alias Bidhi Babul Ghazi, one Infinix mobile phone was recovered from her purse. Both mobile phones were seized under due panchnama for the purpose of forensic and technical analysis as part of the ongoing investigation.

17. Further, the statement of the driver of the WagonR vehicle was recorded in the presence of the panch witnesses. He stated that he had received a telephonic call from mobile number 7021535294, which as per records, belongs to the applicant/accused no.2 Bithibegaum. The call was in connection with a cab booking for a drop journey from Sudhama Residency, located at Khadipada, Diva East, to Sector 17, CBD Belapur, Navi Mumbai. The driver further stated that the booking was routed through the Ola platform, and pursuant to the same, he had picked up the three female passengers, including the minor victim.

18. Due to intemperate weather and traffic congestion prevailing at the location, the authorities deferred the further recording of statements and formalities at the spot. Accordingly, the accused women, the minor victim, the seized articles including mobile phones and marked currency, were all transported to the office of the Anti-Human Trafficking Prevention Cell by the official government vehicle. The remaining members of the raiding team, panch witnesses, and the decoy customer followed in private vehicles and NGO-supported conveyance.

19. Thus, on 15.06.2024, at around 15:05 hours, at or near the main road leading from Jay Tower, Plot No. 67, Sector 17, CBD Belapur, towards Palm Beach Road, the trap culminated in the apprehension of the accused persons. It is alleged that accused no.1, acting as a *dalal* (pimp), and accused no.2, the present applicant, who is also the maternal aunt of the minor victim, had knowingly and willfully trafficked the minor girl for the purpose of commercial sexual exploitation. Despite being aware of her minority, the said accused persons procured and brought her to the bogus customer with an intent to coerce her into prostitution in exchange for monetary consideration. The conduct attributed to both accused persons reflects a prima facie case of sexual exploitation of a minor. Further, it was revealed during preliminary inquiry that both the accused women are nationals of Bangladesh and had entered the territory of India illegally, without valid passports or travel documents and without obtaining requisite permission or clearance from the competent Indian civil authorities.

20. Based on the material gathered during the trap operation and subsequent inquiry, a First Information Report came to be registered by the complainant on 16.06.2024. The offences invoked in the FIR include those punishable under Sections 370(2) and 34 of the Indian Penal Code, 1860; Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956; Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012; Sections 3 and 6 of the Passport Act, 1967; and Section 14(a) of the Foreigners Act, 1946.

21. Mr. Prabhanjay R. Dave, learned Advocate for the applicant has contended that the applicant has been falsely implicated in the present crime. It is submitted that save and except for the solitary allegation that the applicant made a telephonic call from her mobile number 7021535294 to the Uber/Ola driver, thereby facilitating the transportation of the victim along with two other girls to the location of co-accused Khushi, there exists no other tangible or direct material on record to substantiate the applicant's active involvement in the commission of the alleged offences. It is further urged that the minor victim, in her statement recorded during the investigation, has not made any specific or categorical accusation against the applicant which would attract the ingredients of the penal provisions invoked, particularly under the POCSO Act or the Immoral Traffic (Prevention) Act.

22. The learned Advocate has emphasized that the applicant, being the maternal aunt of the victim, had in fact provided her shelter and protection, and there was no intention on her part to subject the child to sexual exploitation. The applicant is stated to be a permanent resident of the State of West Bengal and is in possession of a valid Aadhaar Card issued by the Government of India, thereby negating the allegation that she is a Bangladeshi national. It is further pointed out that there is no record of any telephonic conversation or WhatsApp exchange between the applicant and the bogus customer, and as such, the link connecting her to the transaction involving prostitution remains unsubstantiated.

23. It is also the submission of the learned counsel that the gravamen of the accusations, including the actual negotiations and the transaction involving the minor victim, are primarily attributable to co-accused Khushi, who is alleged to have sent photographs, negotiated the price, and received the marked currency. The applicant, according to him, is not the primary or active conspirator. It is submitted that the investigation has now been completed, charge-sheet has already been filed before the competent court, and custodial interrogation of the applicant is no longer warranted. Therefore, it is prayed that the applicant be released on bail, subject to such terms and conditions as this Court may deem fit to impose.

24. Per contra, Mrs. Rajashree V Newton, the learned Additional Public Prosecutor has opposed the application for bail with vehemence. It is submitted that the act of the applicant in calling the Ola driver and instructing him to transport the victim along with two other women to the place of co-accused Khushi is not an isolated or innocent act, but rather demonstrates her knowledge and participation in the larger conspiracy involving the trafficking of a minor girl for prostitution. The learned APP has drawn attention to the fact that the timing of the said telephonic communication from the applicant coincides with the sequence of events wherein co-accused Khushi had sent photographs of the victim to the bogus customer for the purpose of negotiating a sexual transaction.

25. It is contended that this synchronisation of events, namely, the applicant's call to the driver for the drop and Khushi's subsequent telephonic interaction with the bogus customer,,prima facie establishes that the applicant was aware of the arrangement being orchestrated for commercial sexual exploitation of a minor. The learned APP submits that such conduct cannot be viewed in isolation and deserves to be considered in the context of the broader facts and circumstances of the case. Given the gravity of the offence and the nature of the allegations, particularly in relation to a minor victim and the transnational dimensions of trafficking, it is urged that the present application for bail be rejected.

26. Ms. Priyanka B. Chavan, learned Advocate appointed through the Legal Aid Services Authority to represent the minor victim, has placed on record a compilation of short notes consisting of relevant factual details, inventory of articles seized during the course of investigation, statements of prosecution witnesses, and the list of documentary evidence relied upon by the Investigating Agency. She has also furnished the text of applicable statutory provisions which govern the present case. In her detailed written submissions, learned counsel has painstakingly narrated the sequence of events leading up to the registration of the present crime.

27. Learned counsel has vehemently contended that the applicant is a foreign national who has unlawfully entered and remained within the territory of India, without any valid passport or travel documentation, thereby posing a serious flight risk and a grave threat to the internal security of the nation. It is further submitted that the allegations levelled against the applicant are not only grave but also revolting, particularly as the applicant, who is the maternal aunt of the victim, is alleged to have forced her own minor niece into the flesh trade for the purpose of illicit financial gain. This, it is submitted, attracts the rigours of Section 370(2) of the Indian Penal Code, Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956, and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, each of which criminalises sexual exploitation and trafficking of minors.

28. It is further submitted that the material on record prima facie reveals that the applicant misused and exploited her position of trust and fiduciary relationship with the minor victim, and under the garb of familial protection, subjected her to systemic sexual exploitation. Attention is drawn to the conduct of co-accused Khushi, who not only exchanged photographs of the victim with the bogus customer but also shared her live location and informed the customer that she was en route in a red WagonR vehicle booked through the Ola app. These circumstances, when read together, according to learned counsel, clearly demonstrate that the applicant was fully aware of the pre-determined destination and the nature of transaction.

29. Learned counsel also referred to the post-rescue counselling records of the victim, which indicate that she had been trafficked and exploited in multiple cities including Bangalore, Kolkata, Goa, and Mumbai, where she was made to serve five to six clients a day. The medical evidence obtained from General Hospital, Vashi, records the victim’s own narration of sexual abuse, which is duly corroborated by the forensic medical report, noting that her hymen was not intact, thereby prima facie supporting the charge of penetrative sexual assault. It is therefore submitted that given the prior history of abuse and the influence exercised by the applicant over the minor, there exists a real and substantial likelihood of tampering with evidence or influencing the victim in the event of release on bail.

30. Learned counsel has also drawn the attention of this Court to the statutory presumption created under Section 4 of the Immoral Traffic (Prevention) Act, 1956, which mandates that once a person is found in circumstances indicating that she is living on the earnings of prostitution of another person, the burden shifts upon such person to rebut the presumption of guilt. In the present case, it is submitted that the prosecution has brought sufficient prima facie material to invoke the presumption under Section 4, and that the burden now lies on the applicant to displace such presumption, which she has failed to do.

31. It is further submitted that the acts attributed to the applicant are not only in flagrant contravention of the domestic statutory framework, but also constitute a serious breach of India's international obligations under the United Nations Convention against Transnational Organized Crime, and specifically, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, and the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. These conventions cast affirmative obligations upon the State to ensure that persons engaging in cross-border trafficking are prosecuted and victims are protected with dignity and care.

32. In support of her contentions, learned Advocate for the victim has placed reliance upon the following judicial pronouncements:

a) *Babita Sandeep Sharma v. State of Maharashtra*, Bail Application No.2262 of 2021, wherein this Court refused bail to an accused involved in trafficking and sexual exploitation of minors;

b) *Prasanta Kumar Sarkar v. Ashis Chatterjee*, (2010) 14 SCC 496, wherein the Supreme Court laid down the parameters for granting or refusing bail and emphasized the need to consider the nature of accusation, severity of punishment, and possibility of tampering with evidence;

c) *Prahlad Singh Bhati v. NCT of Delhi & Anr.*, (2001) 4 SCC 280, wherein the Court highlighted the need to consider societal interest in grave offences;

d) *Pinki v. State of U.P. & Anr.*, Criminal Appeal No.1927 of 2024, decided on 15 April 2022 by the Supreme Court, where the accused's bail was cancelled considering the gravity of the offence of trafficking and the need to protect the minor victim from further harm.

33. I have given my anxious consideration to the rival submissions advanced by the learned Advocate for the applicant, the learned Additional Public Prosecutor for the State, and the learned counsel representing the minor victim. I have also carefully perused the material on record, including the FIR, statements of witnesses under Section 161 of the Code of Criminal

Procedure, the panchanamas, seizure memos, and medical and counselling reports of the victim.

34. The material available on record, considered in light of the allegations set out in the First Information Report, statements of witnesses recorded during investigation, medical and counselling records of the minor victim, as well as the panchnamas and electronic evidence seized, prima facie discloses a grave and serious case against the present applicant. It is an admitted position that the applicant is the maternal aunt of the minor victim, aged about 15 years and 7 months as on the date of incident. Despite this established close familial relationship, the applicant stands charged for offences under Sections 370(2) and 34 of the Indian Penal Code, Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 (PITA), Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO), Sections 3 and 6 of the Passport Act, 1967, and Section 14(a) of the Foreigners Act, 1946.

35. The nature of these offences and the role ascribed to the applicant is not of a mere bystander or passive participant. Rather, the record prima facie suggests that the applicant played an active and conscious role in facilitating the movement, harbouring, and exploitation of her own niece, in flagrant violation of her fiduciary obligation to protect and nurture the minor. Such betrayal of trust, especially by a close relative who stood in a position of moral and legal responsibility, assumes serious proportions in the eyes of law.

36. The Protection of Children from Sexual Offences Act, 2012, has been enacted with the specific legislative intent to safeguard children from sexual abuse and exploitation, and it casts a positive duty upon all persons, especially guardians and relatives, to prevent such exploitation. When a person in such a trusted position is herself the alleged facilitator of abuse, the Court cannot turn a blind eye to the social and legal ramifications of such conduct. The record shows that the minor victim was not only transported across multiple cities, namely Bangalore, Goa, Kolkata, and Mumbai, but was also repeatedly subjected to prostitution for financial gain, allegedly with the knowledge and assistance of the applicant.

37. Further, the definition of "trafficking" under Section 370 of the IPC includes the recruitment, transportation, harbouring, or receipt of a person by means of coercion or abuse of power for the purpose of exploitation. In the instant case, the applicant's involvement is evident from the fact that she allegedly coordinated with co-accused Khushi, arranged transport for the victim, and enabled the victim's presence at a predetermined location for the purpose of handing her over to a customer. Her conduct falls squarely within the definition of "trafficking," and attracts the aggravated punishment under Section 370(2) IPC, as the victim is a minor.

38. In such cases, the fiduciary relationship of the accused with the victim aggravates the offence. The Supreme Court has consistently held that abuse of a position of trust in relation to a child victim enhances the gravity of the offence, as it erodes not just the victim's physical autonomy, but also causes deep psychological trauma. The present case is not merely a matter of moral delinquency; it is one which carries legal, social, and constitutional implications, touching upon the State's obligation under Article 15(3) and Article 39(e) & (f) of the Constitution to protect children from exploitation.

39. Moreover, the allegations against the applicant are not isolated or vague. The record contains statements of the victim detailing her movement across cities, the coercion faced, and the arrangements made by the applicant. Her medical examination confirms sexual exploitation, and counselling notes reveal patterns of forced engagement in sex work. The proximity in timing between the applicant's call to the cab driver and the negotiations conducted by co-accused Khushi with the bogus customer further establish a coordinated plan, in which the applicant was an integral participant.

40. In light of the foregoing, this Court finds that the gravity of the accusation, the trust betrayed by the applicant, the vulnerability of the minor victim, and the potential of further victimisation or tampering, cumulatively disentitle the applicant from the discretionary relief of bail at this stage.

41. Though the learned counsel for the applicant has attempted to distance the applicant from the core act of negotiation and receipt of money, the cumulative circumstances on record cannot be ignored. The prosecution has placed on record the fact that the Ola cab used to transport the victim to the location of the co-accused Khushi was booked from the mobile number belonging to the applicant. The timing of this call closely corresponds with the sequence of WhatsApp communication between the co-accused and the bogus customer, wherein photographs of the minor victim were exchanged for purposes of soliciting prostitution. This synchronisation of events, though circumstantial, indicates the applicant's knowledge of and participation in the transaction.

42. The victim's counselling records, generated by certified NGOs in the field of anti-human trafficking, reveal that she had been transported to multiple cities including Goa, Bangalore, Kolkata, and Mumbai, and was made to service five to six customers daily. Her medical examination corroborates the allegations of penetrative sexual assault, with the hymen found not intact, and the victim's own statements recorded under medical and therapeutic circumstances implicate her aunt as someone who facilitated such exploitation under the pretext of familial shelter. These aspects cannot be brushed aside as mere coincidence or speculative inferences.

43. The argument advanced on behalf of the applicant that she is a citizen of India residing in West Bengal also lacks prima facie merit at this stage. No passport, visa, or valid documentation has been placed on record to rebut the prosecution's case that she is a Bangladeshi national who has illegally entered India, in contravention of Section 14 of the Foreigners Act and Sections 3 and 6 of the Passport Act. The Aadhaar card relied upon by the applicant cannot, by itself, establish lawful entry or nationality in absence of corroborative official documentation.

44. Moreover, in view of the statutory presumption under Section 4 of the Immoral Traffic (Prevention) Act, 1956, which operates against a person found to be living on the earnings of prostitution of another, the burden shifts upon the accused to rebut such presumption. At this stage, the applicant has failed to discharge such burden either through any plausible explanation or credible material.

45. The offences alleged are of a very serious nature, involving cross-border trafficking, sexual exploitation of a minor, and unlawful financial gain by use of coercion and deception. These are not only in violation of Indian statutes but also in breach of India's obligations under the UN Convention against Transnational Organized Crime and the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

46. The applicant's continued custody is necessary not only for the integrity of the ongoing trial but also for ensuring that the victim is not again subjected to fear, intimidation or manipulation, particularly considering the prior position of control exercised by the applicant over the minor. There is a clear and present risk of tampering with evidence and influencing the victim if the applicant is released on bail.

47. The judgments relied upon by the learned counsel for the victim, particularly in *Babita Sandeep Sharma v. State of Maharashtra* and *Pinki v. State of U.P.*, are squarely applicable to the present case, as they caution against the grant of bail in cases involving child trafficking, sexual exploitation, and violation of transnational legal norms, especially where the accused stands in a position of trust.

48. It is trite that the power to grant bail under Section 439 of the Code of Criminal Procedure is discretionary and must be exercised with due caution, especially in cases involving heinous offences where the interest of the victim, society, and the larger public interest must be weighed against the fundamental right to personal liberty of the accused. The Supreme Court in *Prasanta Kumar Sarkar (Supra)*, has categorically held that while deciding a bail application, the Court must consider, inter alia, the nature and gravity of the accusation, the severity of punishment in the event of conviction, the character of the evidence, the position and status of the accused, the likelihood of the accused fleeing from justice, and the possibility of tampering with evidence.

49. Applying these settled principles to the facts of the present case, this Court finds that: The allegations against the applicant are grave, involving trafficking of a minor girl, penetrative sexual assault, and commercial sexual exploitation. The applicant is alleged to have misused her position as a maternal aunt and guardian, thereby breaching a fiduciary duty and facilitating exploitation. The evidence collected during investigation, including the mobile number linked to the Ola booking, medical and counselling reports of the victim, recovery of mobile devices, and the FIR narrative, prima facie implicates the applicant. There is no convincing rebuttal from the applicant to the statutory presumption under Section 4 of the PITA Act. The applicant is a foreign national without valid travel documentation, thereby posing a risk of absconding and endangering the fair course of trial. The possibility of the applicant tampering with prosecution evidence and influencing the minor victim cannot be ruled out at this stage.

50. In such a situation, the liberty of the applicant must yield to the legitimate concerns of safeguarding the interest of the minor victim and ensuring an unhampered trial in a case that strikes at the conscience of society. The Courts must adopt a victim-centric approach in offences against children, especially where trafficking and sexual exploitation are alleged.

51. Having regard to the gravity of the offence, the seriousness of the allegations, the prima facie material demonstrating complicity of the applicant, the vulnerability of the victim, and the risk of flight and tampering, this Court is not inclined to exercise discretion in favour of the applicant.

52. In view of the aforesaid discussion, the application seeking regular bail stands rejected.

53. However, it is clarified that the observations made herein are prima facie in nature and confined to the adjudication of the present bail application only. The Trial Court shall not be influenced by any of these findings during the course of trial and shall decide the matter on its own merits and in accordance with law.

54. This Court places on record its appreciation for the diligent and meticulous efforts undertaken by Ms. Priyanka B. Chavan, learned counsel appointed through legal aid, for preparing comprehensive written submissions and for effectively presenting the factual and legal intricacies involved in the matter.

55. The bail application is disposed of.

(AMIT BORKAR, J.)