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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 822 OF 2025

Ram Lakhan Yadav

..... Applicant

VERSUS

State of Maharashtra

..... Respondent

Mr. Prabhanjay R. Dave a/w. Mr. Anish Jadhav for the Applicant.

Mr. Avinash Naik, A.P.P. for the State.

Mr. Pradeep Kale, P.I., Borivali Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : 9th APRIL, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 760/2024 dated 11th October, 2024 registered with Borivali Police Station for the offences punishable under Sections 143(3) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3, 4, 5 and 7(1)(b) of the Immoral Traffic Prevention Act, 1956.

2. On 2nd April, 2025, the following order was passed in the present pre-arrest bail application :-

1. The learned APP and the IO are not ready with this matter since any question put to them they are not able to answer them. On the last occasion this Court has

specifically put questions to the learned APP when the IO was present whether the statement of the secretary, manager and treasure of the co-operative housing society in which the subject property is situated are recorded or not ?

2. So also, a specific query was put to the learned APP whether the statement of the adjacent shop owner has been recorded. Sadly, today same questions are put by this Court, but there are no answers from the learned APP and the IO. I have no option but to adjourn the matter looking at the gravity of the offence, I am not able to decide this matter today.

3. Stand over to **9/4/2025** under the caption **“for urgent circulation”**.

4. Since the learned APP and the IO are not able to show any direct evidence in the form of any video footage or any other evidence to show that same kind of an illegal business of the prostitution as alleged in the FIR was being conducted in the subject premises, the applicant needs to be protected from being arrested till the next date of the hearing.

5. No coercive steps be taken against the applicant till next date of the hearing.

3. On behalf of the applicant, it has been also submitted that the present applicant is the owner of the subject flat in which the alleged activity of prostitution was going on. It is submitted that the said premises was handed over on leave and licence basis to one Mr. Shafat Ali Khan for a period of 33 months starting from 10th October, 2023. In the said leave and licence agreement, one of the condition was that the premises would be used by the licensee for non-residential

purpose and the licensee would not commit any kind of unlawful activities prohibited by the Government. If done, the licence agreement was supposed to be terminated/cancelled. It is further submitted that since according to the police, some kind of illegal activity was going on in the said premises, the present applicant is of the view that he will be taking steps for terminating the leave and licence agreement.

4. The learned A.P.P. submits that the Investigating Officer is present in Court. However, the Investigating Officer is not able to record the statement of the Secretary, Chairman of the co-operative society of the building in which the subject spa is situated, as the society is at present under the control of an administrator appointed by the Co-operative Department. He however has placed on record few photographs of the building wherein this spa can be seen. He further submits that the adjacent flat owner next to the spa is a doctor who has also given his premises on leave and licence. The doctor's statement was recorded. In the doctor's statement, the doctor is not able to state that any kind of illegal activities are going on in the subject premises. He further submits that the flat in which the subject spa was operated, has been in lock and key and the business activity

from the date the raid was conducted i.e. 10th October, 2024 has been closed.

5. From the photographs which are tendered by the learned A.P.P. today, it can be seen that next to the subject spa, there is entrance of the building. And next to the said entrance, there is Jain Muni Vishranti Sthal (Jain Muni Rest House). Considering the fact that none of the residents of the building have complained about the alleged activities carried out in the spa, neither there is complaint from the Jain Muni Rest House for any kind of illegal activity being carried out from the spa, therefore there is no evidence at this stage to suggest that some kind of illegal activity was going on in that spa of prostitution. Therefore, till the Trial concludes, there should be protective order.

6. It is also suggested before this Court that the statement of the victims who are 38 and 37 years respectively, does not suggest that they are indulged into any kind of prostitution.

7. So also statement recorded under Section 164 of the Code of Criminal Procedure, recorded by the police also does not suggest of any kind of prostitution being going on in the subject premises. Therefore, at this stage, the applicant needs to be protected as there is

no evidence brought on record against the present applicant.

8. Hence, the present anticipatory bail application stands allowed.

Hence, the following order :-

ORDER

(a) **The anticipatory bail application is allowed.**

(b) In the event of arrest in connection with Crime No. 760/2024 dated 11th October, 2024 registered with Borivali Police Station for the offences punishable under Sections 143(3) read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3, 4, 5 and 7(1)(b) of the Immoral Traffic Prevention Act, 1956, the applicant shall be released on bail, on furnishing P.R. bonds to the extent of Rs.50,000/- with one or more sureties of the like amount.

(c) The applicant shall co-operate with the investigation and attend and meet the Investigating Officer of the concerned Police Station on every Monday between 11:00 a.m. to 1:00 p.m., till filing of the charge-sheet.

(d) The applicant should not directly or indirectly contact the first informant in any form whatsoever.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and further, the applicant shall not tamper with the evidence in any manner whatsoever.

(f) The applicant shall furnish details of his residential addresses, contact numbers and e-mail addresses to the Investigating Officer.

(g) The applicant will also take steps to terminate the leave and licence agreement dated 10th October, 2023 entered into between the applicant and Mr.Sharaf Ali Khan.

9. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application, and that the trial Court shall

proceed further, without being influenced by the observations made in this order.

10. **The anticipatory bail applications is disposed of.**

[RAJESH S. PATIL, J.]