IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO.568 OF 2023

Manoj s/o Arjun Ghanshani,
aged 32 years, occupation: business,
r/o block No.49B,
Jaripatka Barakholi, Nagpur. ..... **Applicant**

:: **V E R S U S** ::

State of Maharashtra, through
its Station Incharge, Police Station, Sadar,
Nagpur. ..... **Non-applicant**

Shri Amit Bhate, Counsel for the Applicant.
Mrs.H.N.Prabhu, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.

CLOSED ON : 24/09/2025
PRONOUNCED ON : 01/10/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

1. Heard learned counsel Shri Amit Bhate for the applicant and learned Additional Public Prosecutor Mrs.H.N.Prabhu for the State. **Admit**. Heard finally by consent.

2. The present application is preferred by the applicant for quashing FIR in connection with Crime No.379/2022 registered under Sections 420, 467, 468, 471, and 370 read with 34 of the IPC and under Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 and consequent proceeding arising out of the same i.e. Sessions Case No.771/2022 pending before learned Sessions Court, Nagpur against the applicant.

3. The applicant is arrayed as an accused in connection with the above said crime on the basis of report lodged by Assistant Police Inspector Shri Santosh Pandurang Jadhav on allegation that on 16.9.2022, when he was present in the police station, he received a secret information that in hotel “Tuli International” foreign citizens are brought for the purpose of prostitution and, therefore, in presence of panchas and other raiding party members, he conducted a raid. On conducting the raid,

two women from country Uzbekistan were found. They disclosed their names and also produced their Identity Cards, from which it revealed that Identity Cards i.e. Election and Aadhar Cards were forged one. During enquiry with them, it revealed that the applicant has provided them Election as well as the Aadhar Cards. Their statements were recorded. On the basis of the said report, the police registered the crime against the applicant.

4. Learned counsel for the applicant submitted that as far as immoral trafficking is concerned, there is no allegation against the applicant that he has brought these women for prostitution. On the contrary, statements of these women show that they themselves came in India and indulged in the said prostitution work and, therefore, no *prima facie case* is made out against the applicant. He further submitted that as far as preparing of forged

documents is concerned, there is no *prima facie* material against the applicant to show that he is indulged in preparing the said forged documents. He invited our attention towards Section 370 of the said Act which deals with trafficking of persons and submitted that none of ingredients are attracted as far as the offence under the said Section is concerned and, therefore, the FIR lodged against the applicant deserves to be quashed.

5. *Per contra*, learned Additional Public Prosecutor for the State strongly opposed the application and submitted that perusal of the material collected by the investigating agency shows that the investigating agency recorded statements of two foreign women who were engaged in sex trade. The mobile phone of the applicant was seized wherein mobile numbers of various customers, women, and girls were found. It also revealed during the investigation that the applicant has received

commission from customers and paid amounts to foreign women as per mobile Banking-App, Google-Pay, Phone-Pay, and Pay-Tm. During the investigation, it further revealed that co-accused is resident of Uzbekistan and his fake Voter ID/Aadhar Card were prepared and, therefore, the offences under Sections 420, 468, and 471 of the IPC are also applicable. Thus, there is a *prima facie* material to connect the applicant with the alleged offence.

6. Having heard both the sides and perused investigation papers, it revealed from statements of two women that it was the applicant who has booked tickets for them by using Application “Make-My-Trip” . He has arranged for them stay in Hotel “Tuli International”. He has also provided them Election and Aadhar Cards. They have not informed that they are not citizens of India, but they are from country Uzbekistan. During investigating, it further revealed that the applicant has received

commission by engaging them with various customers for prostitution work. It further revealed during the investigating, on verification of the mobile phone, that they have communication with each other by way of chatting. Various photographs of foreign girls were also found in his mobile phone. He has received commission through the Mobile Banking App and he has also paid commission to various persons i.e. various agents by way of Mobile Banking App.

7. Thus, the investigation papers sufficiently show that the applicant is engaged in prostitution work bringing foreign nationals in India providing them forged ID Cards and engaging them in activities like sexual trade.

8. Section 370 of the Immoral Traffic (Prevention) Act, states that whoever, for the purpose of exploitation recruits, transports, harbours, transfers, or

receives, a person or persons, by using threats, or using force, or any other form of coercion, or by abduction, or by practising fraud, or deception, or by abuse of power, or by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Explanation-2 of the said Section shows that consent of the victim is immaterial in determination of the offence of trafficking.

Sub section (2) of the said Section states that whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

9. Admittedly, two women found in hotel "Tuli International" were brought in Nagpur on the basis of the forged identity by providing them certain identity cards. As per statements of these women, said Identity Cards were provided to them by the applicant. Admittedly, they are not Indian citizens. The statements recorded by the investigating agency sufficiently show that arragnement to bring them was done by the applicant.

10. At this stage, it would be difficult to decide whether documents are forged or not, but fact, that such documents have been found with these two women and as per their statements, the said were provided to them by the applicant, cannot be ignored.

11. The investigating papers show that there is doubt regarding genuineness of Aadhar Cards and other

documents. The investigation was carried out and it revealed that these documents are forged documents.

12. These two women are brought and staying at Nagpur without permission or without having with them Visa to stay here. It is about making and using fake and forged identity documents like Aadhar and Election Cards with an aim pretending to be Indian citizens.

13. Thus, *prima facie* material on record is sufficient, at this stage, to connect the applicant with the alleged offence.

14. At this stage, a reference can be taken from the decision of the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Suppl.(1) SCC 335** wherein it is observed that powers under Section 482 can be exercised in following circumstances:

"(i) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is

> instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party; and
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> (g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge".

15. In the light of the above guidelines issued by the Hon'ble Apex Court, in the present case, *prima facie* material on record is sufficient to show that the applicant is involved in the work of prostitution and he is getting benefit from the said work and, therefore, the application deserves to be rejected.

16. In this view of the matter, the application stands **rejected** and **disposed of** accordingly.

(NANDESH S.DESHPANDE, J.) (**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede, PS !!