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

CRIMINAL APPEAL NO.153 OF 2025

Ashish s/o Chandrabhushan Masih,
Aged : 39 Years, Occupation: Employed,
Resident of 62 Maharana Nagar – 1,
Zingabai Takali, Mankapur,
Nagpur.

..... APPELLANT

// VERSUS //

1. State of Maharashtra,
through SDPO Veltur Police Station,
Taluka Kuhi, Nagpur Rural,
Nagpur 441210.
2. XYZ, victim Crime No.114/2024
through PSO Velture,
Velture, Taluka Kuhi,
Nagpur 441210 Maharashtra.

.... RESPONDENTS

Mr. N. B. Rathod, Counsel for the appellant.
Mr. C. A. Lokhande, APP for the respondent No.1 /State.
Mr. Rupesh Dhengre, Counsel for the respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29.04.2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. By challenging the order dated 04.10.2024 passed by
the learned Special Judge and Additional Sessions Judge-13, Nagpur
in Criminal Bail Application No.2413/2024 below Exh.1, rejecting
the application of the present appellant for grant of anticipatory

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bail, the present appeal is preferred for grant of anticipatory bail and for setting aside and quashing the order passed by the learned Special Court.

4. The crime is registered against the present appellant on the basis of report lodged by the informant Jaypalsingh Mirase on an allegation that on 17.07.2024 police effected the raid at hotel 'You and Me Lodging Boarding Restaurant', there they found that the prostitution business was being conducted therein. The police arrested the co-accused Vijay Meshram from the said hotel and also recorded the statement of the victim, who narrated that the co-accused inducted her in the work of prostitution. She further stated that one another person has also subjected her for the sexual intercourse. On the basis of the said report, police have registered the crime and the appellant is apprehending the arrest at the hands of police as she has alleged that she was subjected for the sexual assault by the person whose name is unknown to her, but who came along with the said Vijay.

5. Heard learned Counsel Mr. Rathod for the appellant, who submitted that the appellant is connected with the Freedom Firm, of which he is involved in rescuing the victims, who are indulge in the prostitution business, and during the inquiry, it revealed to the present appellant that the victim is involved in the prostitution and she is minor, and therefore, he conducted the

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inquiry. After conducting the inquiry, he informed the said incident to NGO as well as the Superintendent of Police and on the basis of his information, the raid was conducted and the victim was rescued. But subsequent to the conducting the raid, the victim has made allegation against the present appellant, and therefore, he approached to the Special Court for grant of bail in the event of his arrest. He submitted that as far as the name of the present appellant is concerned, which is not narrated by the victim neither she narrated the location, but as the police are behind the appellant to arrest him, he approached to the Special Court for grant of bail, the same was rejected and hence, the appeal. He invited my attention towards the various communications made by him to the Freedom Firm as well as the inquiry conducted by him with the victim and the letter issued to the Superintendent of Police, Nagpur.

6. Learned APP and learned Counsel for the respondent No.2 – victim strongly opposed for the same on the ground that the victim was indulged in prostitution on the insistence of the co-accused Vijay and the present appellant has also allegedly subjected her for forceful sexual assault, and therefore, his custodial interrogation is required. Learned APP further submitted that the appellant though served with notice, he has not attended the Police Station and not cooperated with the investigating agency,

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and therefore, the prayer for grant of anticipatory bail deserves to be rejected.

7. The reply filed by the victim clarifies that she was not subjected for the sexual assault by the present appellant and she has raised no objection to release the present appellant on bail.

8. On hearing both sides and on perusal of the investigation papers, it reveals that a Non Governmental Organization (NGO) namely "Freedom Firm" as an Administrator cum Investigator, who involved in rescuing the victim, who are indulged in the prostitution. The documents on record sufficiently shows that the present appellant was working for the said Freedom Firm. The communication dated 06.09.2017 also discloses the association of the present appellant with the said Freedom Firm. The document on record further shows that the present appellant has communicated with victim and tried to investigate how she entered into the prostitution and after the said inquiry, he issued a letter to the Superintend of Police that victim is indulged in the prostitution vide letter dated 17.07.2024 and thereafter the raid was conducted. During the raid, victim was found along with the dummy person and it revealed that she is indulged in the activity like the prostitution. After conducting the raid, her statement was recorded. Initially, she has not narrated any role to the present appellant, but in her subsequent statement, she stated that the

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person who came along with the co-accused Vijay has also subjected her for the forceful sexual assault. Thus, the allegation is made against the present appellant though his name is not mentioned. Even accepting the said statement, she has neither described the said person and also not given the description by mentioning that the person was the same person who has inquired with her prior to the raid. Her statement also nowhere discloses that the present appellant was knowing that she belongs to the Scheduled Caste or the Scheduled Tribe.

9. Considering the entire investigation and the documents on record, which sufficiently shows the association of the present appellant with the Freedom Firm. It also reveals that he has inquired with the victim as to her involvement and that may be a reason to implicate him in the alleged offence. At this stage it would not be appropriate to comment on the merit of the case, but considering the entire investigation papers, at this stage, the involvement of the present appellant appears to be doubtful, and therefore, the appellant has made out a case for grant of anticipatory bail. In view of that the appeal deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The appeal is allowed.

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(ii) The appellant **Ashish s/o Chandrabhushan Masih** shall be released on anticipatory bail in connection with Crime No.114/2024 registered with Veltur Police Station, District Nagpur for the offence punishable under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, under Sections 143, 143(4), 70(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Section 4, 6 and 17 of the Protection of Children from Sexual Offences Act and under Sections 4 and 5 of the Juvenile Justice (Care and Protection of Children) Act and under Sections 3(1)(w)(i)(ii), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, on executing PR Bond in the sum of Rs.25,000/- with one solvent in the like amount.

(iii) The order dated 04.10.2024 passed by the learned Special Judge and Additional Sessions Judge-13, Nagpur in Criminal Bail Application No.2413/2024 below Exh.1, rejecting the bail application of the present appellant is hereby quashed and set aside.

(iv) The appellant shall attend the concerned Police Station twice in a week on Monday and Thursday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency.

(v) The appellant shall not leave the jurisdiction of the Nagpur District without prior permission of the Special Court Nagpur.

(vi) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)