IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3717 OF 2026

RUPESH RAMCHANDRA CHAPKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

…

Shri Sudarshan J. Salunke, Advocate for the applicant.
Mr. V.M. Lomte, APP for respondent Nos.1 and 2/ State.

…

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 31 October 2026

Per Court :-

1. The applicant is seeking quashment of FIR bearing Crime No.333/2025 dated 13.08.2025 registered with the Badnapur Police Station, District Jalna, for the offences punishable under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956. After completion of investigation, the charge-sheet is filed and the case is registered as Regular Criminal Case No.03/2026 before the learned Judicial Magistrate, First Class, Badnapur, District Jalna. The applicant also seeks quashment of the further proceedings.

2. Though, on the one hand, the learned advocate for

the applicant/accused has vehemently canvassed for allowing the application and on the other hand, the learned APP appearing for the respondents/ State, has strenuously opposed the same. However, upon considering the submissions advanced by the learned counsel for the respective parties and upon perusal of the material available on record, including the FIR and the charge-sheet, I find that the controversy involved in the present matter is covered by the judgments of this Court referred to hereinbelow. Therefore, an elaborate discussion on the rival submissions is not necessary.

3. After hearing the learned counsel for the parties and going through the record, it would be required to be seen whether, the offences punishable under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as "the PITA Act") would be attracted against the applicant, who was admittedly a customer and had no intention to carry on the business of prostitution. In this regard, the reliance placed by the learned counsel for the applicant on the judgment delivered by this Court in ***Mohammad Juned Mohammad Rauf @ Mohammad Juned Maruf Mohammad Rauf v. State of***

Maharashtra, Criminal Application No.1459 of 2018 (Aurangabad Bench), decided on 4th February 2020, assumes significance. In the said judgment, this Court has considered the applicability of the provisions of Sections 3, 4 and 5 of the PITA Act to a person who was admittedly a customer.

4. In the present case, the prosecution case is that when the raiding party raided the brothel, the applicant was found there with another person. There is no evidence to indicate that the applicant had paid any amount to the Manager for the alleged act. There is nothing in the investigation papers to indicate that the applicant was doing anything to suggest that he had caused or induced any girl to carry on prostitution. Mere presence at the brothel will not amount to causing or inducing any person to carry on prostitution. Therefore, soliciting sexual intercourse from a girl, in the facts of the present case, would not come within the scope of Section 5 of the PITA Act.

5. The Division Bench of this Court in ***Eimn Abdulamir Jassem Al-Allaf v. State of Maharashtra***, Criminal Writ Petition No. 564 of 2018, decided on 1st November 2018, while interpreting the provisions of Section 5(1)(d) of the PITA

Act, particularly the word "cause" appearing therein, observed that the dictionary meaning of the word "cause" is a person or thing that gives rise to an action, phenomenon or condition. The Court further observed that the word "cause" is used in the context of those persons who are responsible for bringing the victim into the flesh trade.

6. However, the material collected by the Investigating Officer in the present case nowhere suggests that any of the aforesaid provisions can be pressed into service against the applicant. It is not the case of the prosecution that the applicant procured any person or induced any person to go from any place for the purpose of prostitution, or took any person from one place to another for carrying on prostitution. To attract the aforesaid provisions, the prosecution must bring on record material to show that the accused had committed the acts contemplated under the respective provisions, such as keeping or managing a brothel, living on the earnings of prostitution of another person, or procuring, inducing or taking a person for the purpose of prostitution. In the present case, no such material is available against the applicant.

7. In that view of the matter, the applicant cannot be said to have committed the offences punishable under Sections 3, 4 and 5 of the PITA Act. As such, the application deserves to be allowed. Hence, the following order:-

ORDER

(a) The Criminal Application is allowed.

(b) FIR bearing Crime No.333/2025 dated 13.08.2025 registered with the Badnapur Police Station, District Jalna and the further consequential proceedings arising out of the said FIR, are quashed and set aside, to the extent of the present applicant.

kps (SUSHIL M. GHODESWAR, J.)