

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 17 OF 2026

Balasaheb Alias Kacharnath Ramesh Hirbhagat

VERSUS

The State of Maharashtra

...

Ms. Dhanashree P. h/f Mr. Kalekar Tanmay Alias Shantanu Shashikant, Advocate for Applicant.

Ms. Sujata B. Lohar, Advocate appointed through legal-aid for Respondent/victim.

Dr. A.A. Takalkar, APP for the Respondent – State.

...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 18th APRIL, 2026.

P. C. :

1. The applicant raises challenge to the order dated 06.12.2025 rendered by the learned Special Judge (POCSO), Solapur in Special Case No.159 of 2023 below Exhibit-38 the application for discharge from offences punishable under Sections 370, 376, 342 read with Section 34 of the Indian Penal Code, Sections 3, 4, 5 and 6 of the Immoral Traffic (Prevention) Act, 1956, Sections 4, 6, 8, 10, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012, and Section 81 of the Juvenile Justice Act, 2015 came to be rejected.

3. The prosecution case is that the informant, mother of the minor victim, alleges that her former husband, despite being aware of their daughter's minority, exploited her for financial gain from the year 2020 to the present by "selling" her. It is further alleged that the owners of these centers, knowingly purchased the minor and confined her. The accused owners allegedly forced the victim to perform dances before men and engage in their "meetings". The complainant further states that the accused center owners, in collusion with the father of victim, coerced the minor victim into non-consensual sexual intercourse with four unidentified men on four separate occasions in exchange for money. Consequently, the report came to be lodged.

2. Learned counsel for the applicant submits that the order under challenge is unsustainable in law. The applicant's name has surfaced at a belated stage in the supplementary statement. The applicant was merely a customer and he was not involved in the actual offence of transportation nor in the transaction of selling or purchasing the victim. As such, there is insufficient material on record to *prima facie* establish the offences levelled against the applicant.

3. It is further submitted that the FIR is lodged by the informant with ulterior motive against the husband as there were no cordial relations between them. The allegations are exaggerated, after thought and baseless. All these aspects are overlooked by the Court below.

4. In support of the contentions, the learned counsel for the applicant has placed reliance on the following Judgments.

i) ***Mahesh Vinayak Patil Versus The State of Maharashtra*** in Criminal Revision Application No.347 of 2023 dated 03.01.2024 passed by the High Court of Bombay.

ii) **Sanjay Kumar Rai Vs. State of Uttar Pradesh, AIR 2021 SC 2351.**

iii) **Dipak Soni Versus State of West Bengal, AIROnline 2024 CAL 1359.**

5. Learned APP for the Respondent – State and learned Advocate for the Respondent/victim have supported the order under challenge and have opposed the application submitting that the offence is serious in nature. The role of the applicant is demonstrated in the supplementary statement of the victim. As such, the applicant is also involved in sexual exploitation and other offences committed against the victim. Hence, prayed to reject the

application.

6. Having heard the submissions from the respective sides and upon perusal of the record including charge-sheet indicates that the victim was allegedly forced to engage into prostitution and other similar activities at the instance of the prime accused.

7. Further perusal of the supplementary statement dated 24.05.2023 of the victim prima facie indicates that the applicant approached the prime accused and paid certain sum of money in exchange of establishing sexual relations with the victim. The said fact is rather admitted by the applicant and has accepted his role as a customer in the entire transaction.

8. In light of the aforesaid facts, the perusal of the Judgment of this Court in ***Mahesh Vinayak Patil*** (*supra*) indicates that in the said case, the accused was implicated solely on the basis of the statement of a police official and the statement of the victim was not recorded. Whereas, in the instant case, the supplementary statement of the victim explicitly specifies the role and conduct of the applicant, who is involved in commission of a sexual assault against a minor. As such, the facts of ***Mahesh Vinayak Patil*** (*supra*) are distinct to that of the peculiar facts of the present case.

9. Furthermore, the Hon'ble Apex Court in the case of **Sanjay Kumar Rai** (supra) has primarily discussed the nature of orders of framing of charges and refusing discharge, particularly in Paragraph No.15 which reads as under:

“15. The correct position of law as laid down in *Madhu Limaye v. State of Maharashtra*¹, thus, is that orders framing charges or refusing discharge are neither interlocutory nor final in nature and are therefore not affected by the bar of Section 397 (2) of CrPC. That apart, this Court in the abovesaid cases has unequivocally acknowledged that the High Court is imbued with inherent jurisdiction to prevent abuse of process or to secure ends of justice having regard to the facts and circumstance of individual cases. As a caveat it may be stated that the High Court, while exercising its aforesaid jurisdiction ought to be circumspect. The discretion vested in the High Court is to be invoked carefully and judiciously for effective and timely administration of criminal justice system. This Court, nonetheless, does not recommend a complete hands off approach. Albeit, there should be interference, may be, in exceptional cases, failing which there is likelihood of serious prejudice to the rights of a citizen. For example, when the contents of a complaint or the other purported material on record is a brazen attempt to persecute an innocent person, it becomes imperative upon the Court to prevent the abuse of process of law.”

10. Similarly, the case of **Dipak Soni** (Supra) pertains to a case of an accused, who came to be arrested during a raid at a brothel procuring services as a customer.

11. Guided by the aforesaid precedents, further perusal of the charge-sheet indicates that there are around 13 accused in the crime, some are on similar footing as that of the applicant. The role of applicant is apparent from the statement of victim. As such, the

¹ (1977) 4 SCC 551

provisions of Section 376 of the Indian Penal Code, the provisions of Protection of Children From Sexual Offences Act, 2012 and Section 81 of the Juvenile Justice Act, 2015 are *prima facie* attracted.

12. As far as the applicability of the other offences against the applicant are concerned, at this stage, this Court is not expected to carry out a meticulous appreciation of evidence or to record findings on it being comprehensive, but only to ascertain whether a *prima facie* case exists.

13. The material on record *prima facie* indicates that the applicant had participated in the transaction in question. The contention that the applicant had no knowledge of the alleged trafficking or exploitation of the victim, is a matter of defence, same can be delved during the trial.

14. The prosecution case discloses involvement of multiple accused and as such, the provision of Section 34 of the Indian Penal Code is invoked against the applicant. The issue as to whether the acts were done in furtherance of common intention as well as the extent of knowledge attributed to each accused, are essentially the matter of trial and require appreciation of evidence in its entirety.

15. Thus, material on record *prima facie* sufficiently indicates and

establish the complicity of the applicant while exploiting the minor sexually. As such, the reliance placed upon **Dipak Soni** (Supra) does not lend the support to the applicant.

16. In view of the aforesaid discussion, there is *prima facie* sufficient material to proceed against the applicant. As such, no error is noted in the order under challenge.

17. Resultantly, the application is rejected.

18. Needless to state that the observations rendered herein are limited only to the extent of the decision of this application and the trial Court shall not be influenced by the same in any manner.

19. Professional fees to be paid to learned counsel for the Respondent/victim appointed through High Court Legal Services Authority as per Rule.

[SACHIN S. DESHMUKH, J.]