Ajay

# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## CRIMINAL APPELLATE JURISDICTION

## BAIL APPLICATION NO. 456 OF 2026

Shafiula @ Sofiula @ Alam Aabuns ar Vahid .. Applicant

Versus

State of Maharashtra and Anr. .. Respondents

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- Mr. Rajabhau Chaudhari a/w. Sharaddha Kadam, Advocates for Applicant.
- Ms. Anuja S. Gota, APP for Respondent No.1 – State.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 08, 2026.

P.C.:

**1.** Heard Mr. Chaudhari, learned Advocate for Applicant; Ms. Gotad, learned APP for Respondent No.1 – State.

**2.** This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking enlargement bail in connection with C.R.No.79 of 2025 registered with Faraskhana Police Station for offences punishable under Sections 62, 64, 97, 98, 142, 143, 99, 34, 32, 3(5), 351(2), 115(2), 127(4) and 137(2) of the Bharatiya Nyaya Sanhita, 2023 (for short '**BNS'**) and Sections 3, 4, 5, 6 and 7 of Immoral Trafficking Prevention Act, 1956. First Information Report (for short '**FIR'** is filed on 24.04.2025 and Applicant was arrested on 25.04.2025.

**3.** Briefly stated, it is prosecution's case that Respondent No.2 – Victim is married with one minor daughter and they were residing in Assam. Her husband was running a vegetable shop in their locality in Assam and was addicted to alcohol because of which he abused his wife, harassed her and frequently assaulted her and since her family was poor she tolerated the abuse silently. In December 2024, Respondent No.2 – Victim met Applicant and they gradually developed a close relationship and he allegedly promised her marriage, employment and peaceful life in Pune. Thereafter, Respondent No.2 along with Applicant and her minor daughter left for Pune and upon arrival in Pune, she was taken to Budhwar Peth where she allegedly discovered that Applicant had deceived her and sold her into trafficking and prostitution. On 24.04.2025, Applicant approached Faraskhana Police Station and registered present FIR against Applicant and several other persons for offences punishable under BNS, 2023 and ITPA, 1956. Applicant filed Bail Application No.4089 of 2025 before Sessions Court, Pune which came to be rejected by order dated 04.11.2025. Hence present Application.

**4.** Mr. Chaudhri, learned Advocate for Applicant would submit that Applicant is falsely indicted in the present crime. He would submit that Respondent No.2 and Applicant were in a love relationship therefore she along with her minor daughter voluntarily on her own free will left her matrimonial home and accompanied Applicant from

Assam to Pune hence the charge of kidnapping is not made out. He would submit that there is no specific charge of prostitution levied against Applicant and neither is there any direct role attributed to him as statement of Respondent No.2 shows that collection of money and introduction of customers was handled by other accused persons hence Applicant had no role to play in the prostitution racket. He would submit that there was no recovery of money, tokens, receipts or any incriminating material from Applicant. He would submit that chargesheet has been filed and further detention of Applicant serves no rational purpose. He would submit that other accused persons have been granted bail by Additional Sessions Court, Pune hence Applicant ought to be released on bail on grounds of parity.

**5.** Ms. Gotad, learned APP for Respondent No.1 – State would submit that Applicant enticed Respondent No.2 to travel to Pune on false promise to marry her but instead sold her into prostitution for a sum of Rs.5,00,000/-. She would submit that Applicant was instrumental to bringing Respondent No.2 to Pune and selling her into prostitution therefore leaving her alone to fend for herself she being in a vulnerable state. She would submit that Applicant is also likely to influence Respondent No.2 and the prosecution witnesses. She would submit that that Applicant and other accused persons forced the victim to establish relations with unknown persons against her will and abetted the offence of prostitution. She would submit that Applicant is

likely to re- offend himself and hence urged this Court to reject grant of bail to Applicant in light of her submissions.

**6.** I have heard the learned Advocates appearing for the parties and with their able assistance, perused the record of the case. Submissions made by learned Advocates at the bar have received due consideration of the Court.

**7.** Respondent No.2 – Victim's statement dated 24.04.2025 is recorded and appended to the Application. It is seen that Applicant and Respondent No.2 were in a consensual love relationship when she decided to flee from Assam to Pune with Applicant and her minor daughter and *prima facie* there is nothing in her statement to show that falsity or deceit was practiced upon her neither is there any allegation of force or coercion upon Respondent No.2 – Victim to leave her matrimonial home in Assam and travel to Pune. This is *prima facie* evident from the statement of the victim itself. Medico - Legal Examination Report is appended at page No.31 of the Application and perusal of the same would show that Respondent No.2 – Victim has suffered no injuries. These findings *prima facie* do not inspire confidence of the Court in the story of Respondent No.2 – Victim that she was forced into prostitution.

**8.** It is seen that Respondent No.2 recorded Supplementary Statement on 13.05.2025 which is appended to the Application at page

No.86A wherein she states that certain social activists took advantage of Respondent No.2's lack of knowledge of Marathi language and urged her to file complaint of harassment at the hands of Applicant and certain other accused persons however she has no complaint of harassment against those accused persons nor Applicant and that she was forced to sign her Preliminary Statement dated 24.04.2025. This Supplementary Statement *prima facie* shows that the case against Applicant is slight and he was arrested merely on the basis of confessional statement of victim on suspicious grounds without any incriminating material found against him.

**9.** It is trite law that ITPA, 1956 is applicable only when a person is found to be involved in human trafficking for prostitution or sexual exploitation however perusal of the material on record shows that there is no *prima facie* material or evidence to prove direct or indirect culpability of Applicant in the present crime. There is no recovery of cash made by the police authorities from Applicant neither is there any recovery of receipt or bank statements to show receipt of Rs.5 lakhs therefore charges under ITPA, 1956 are *prima facie* unsustainable.

**10.** Hence, considering the nature of the allegations made against Applicant and the fact that chargesheet has been filed and investigation is completed and most importantly that the victim stayed

along with the Applicant for 4 months together without demur or any complaint whatsoever during that period, at this *prima facie* stage, I am of the opinion that Applicant should be released on bail.

**11.** Further in order to allay the fear of the victim and submissions made by the prosecution about Applicant re-offending himself, stringent conditions can be undoubtedly imposed. Needless to state that complicity of Applicant in the crime shall be proved at trial. Even though the learned APP vehemently opposed grant of bail, I am inclined to grant bail on the basis of the aforesaid *prima facie* facts and circumstances in present case.

**12.** Hence, in view of above *prima facie* observations and findings, Bail Application of Applicant is allowed subject to the following terms and conditions:-

**(i)** Applicant is directed to be immediately released from prison in connection with CR. No.79 of 2025;

**(ii)** Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like amount;

**(iii)** Applicant shall report to the Investigating Officer at the concerned Police Station, once every month, on the first Monday of the month between 10:00 a.m. to 12:00

p.m. until commencement of trial and thereafter shall attend all dates of hearing before the Trial Court;

**(iv)** Applicant shall cooperate with the conduct of the trial and remain present before the Trial Court on all dates, unless specifically exempted. Applicant shall not seek unnecessary adjournments. Any such conduct shall entitle the prosecution to apply for cancellation of bail;

**(v)** Applicant shall not leave India without prior permission of the Trial Court;

**(vi)** Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

**(vii)** Applicant shall keep the Investigating Officer informed of his current residential address and mobile telephone number and shall forthwith inform the Investigating Officer of any change in his residential address or mobile telephone number, as and when such change occurs; and

**(viii)** Any breach or infraction of any of the aforesaid conditions shall entail cancellation of the bail granted to the Applicant.

**13.** It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

**14.** Bail Application is allowed and disposed in the above terms.

**[ MILIND N. JADHAV, J. ]**

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