



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

CRIMINAL APPLICATION (APL) NO. 949 OF 2024

APPLICANT : **ASHISH RAKESH CHAWLA,**
Age 28 years, Occu- CA,
R/o Plot No. 173, Chawla Palace,
Vivekanand Nagar, Nagpur.
..VERSUS..

RESPONDENTS : 1) **STATE OF MAHARASHTRA,**
Through Police Station Officer,
P.S. Beltarodi, Nagpur.
2) **XYZ (Victim)**
Crime No. 109/2024
P.S. Beltarodi, Nagpur.

WITH
CRIMINAL APPLICATION (APL) NO. 948 OF 2024

APPLICANT : **RAKESH BALBIRSINGH CHAWLA,**
Age 59 years, Occu- Business,
R/o Plot No. 173, Chawla Palace,
Vivekanand Nagar, Nagpur.
..VERSUS..

RESPONDENTS : 1) **STATE OF MAHARASHTRA,**
Through its Police Station Officer,
P.S. Beltarodi, Nagpur.
2) **XYZ (Victim)**
Crime No. 109/2024
P.S. Beltarodi, Nagpur.

Mr. Arjun V. Bobde, counsel with Ms Shubhangi A. Jadhao, counsel for applicants in both applications.

Ms D.I. Charlewar, APP for respondent/State

Mr Nitesh T. Gwalwanshi, counsel for respondent No.2.

CORAM : **PRAVIN S. PATIL, J.**

DATE OF RESERVE : **05/02/2026**

DATE OF DECISION : **26/02/2026**

JUDGMENT :

1. Heard. **Rule.** Rule made returnable forthwith. By consent of Mr. Arjun V. Bobde, counsel with Ms Shubhangi A. Jadhao, counsel for the applicants, Ms D.I. Charlewar, learned APP for respondent /State and Mr. Nitesh T. Gwalwanshi, learned counsel for respondent No.2, the application is taken up for final hearing at the stage of admission.

2. In both these applications, the challenge is to the same criminal proceedings registered against the applicants for the offence punishable under Sections 370, 370(1) read with Section 34 of the Indian Penal Code, 1860, and Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956 (for short 'the Act of 1956'), and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the Act of 2012') vide crime No.109 of 2024. The applicants further seek quashing of the proceedings registered as Special Case No. 207 of 2024.

3. The case of the prosecution, in brief, is that on receipt of secrete information on 12/02/2024 regarding the prostitution activities being conducted at Hotel Krishnakunj (OYO), situated within the jurisdiction of Beltarodi Police Station, the police authorities arranged a decoy operation by deputing a dummy customer along with a panch

witness. During the raid conducted at the said premises, a minor victim girl was allegedly found in one of the rooms of the hotel along with a customer. Certain articles, including marked currency notes, were seized, leading to registration of the offence against multiple accused persons.

4. During the investigation, it is transpired that hotel premises belonged to the accused persons and was allegedly given on rent to co-accused Gajanan Sonwane for running the hotel business. The prosecution alleges that accused persons, acting in concert, facilitated prostitution activities by providing accommodation to customers and the victim girl for monetary consideration. The statements of witnesses, spot panchanama, call detail records, and documentary material collected during investigation are relied upon by investigating agency to attribute the involvement of the applicants along with other accused persons.

5. In the background of this case of prosecution, the applicants approached before this Court, who are the father and son. The applicants came with a submission that they were falsely implicated in the matter. According to them, neither the recitals of first information report nor the material collected during the investigation disclose any specific role attributed to them so as to attract the ingredients of the alleged offence.

6. It is the submission of the applicants that hotel premises had been given on rent to the co-accused - Gajanan Sonwane, who was exclusively responsible for running and managing the business operations. The applicants contend that merely because they are the owner and son of the owner, cannot be fastened with criminal liability in absence of any material showing knowledge or participation in the alleged activities.

7. The applicants have relied upon the order passed by this Court while granting bail to the present applicants. According to the applicants,

this Court, while granting bail, recorded the finding that, “Allegations in the statement of victim shows that co-accused Alok Gaikwad took her in the said hospital. Thus, even if entire case of the prosecution is accepted as it is, it nowhere shows that it was the present applicants who were running the prostitution business in the said hotel. Thus, considering the recitals of the FIR and the statement of the victim, the applicants are neither a human trafficker nor a brothel owners. The only allegation against him is that in the said hotel which is owned by them, a room was allotted to the said customer and the victim”. This finding of this Court according to applicants is relevant to consider the case for quashing the proceeding registered against them in the matter.

8. It is further submitted that none of the ingredients of Sections 3, 4, 5 and 7 of the Act, 1956 are attracted against the applicants in the matter, nor the offence is made out under Sections 370 and 370(1) of the Indian Penal Code, 1860.

9. The prosecution has strongly opposed the present application. According to the prosecution, the offence in question pertains to trafficking and sexual exploitation of a minor girl from the premises of Hotel Krishnakunj (OYO) and the investigation has revealed that said premises were being systemically used for illegal prostitution activities.

10. It is further contention of the prosecution that though the premises were given on rent to co-accused Gajanan Sonwane, he had no independent control over the affairs of the Hotel, and the present applicants were supervising all the affairs of the hotel. As such, the applicants cannot escape liability merely by ascertaining their absence at the time of raid, particularly when the offence allegedly involved organized activities carried out from the premises over a period of time.

The question as to whether the applicants have knowledge of or have their participation in the alleged activities is a matter of consideration and same can be established and proved only parties lead their respective evidence during the trial.

11. In the present matter, the complainant also appeared and filed the reply. The complainant, in her reply, stated that Memorandum of Understanding dated 01/01/2024 relied by the applicants is first time produced before this Court. Complainant raised doubt about validity and authenticity of agreement on various count. According to complainant such disputed document cannot be relied upon at this stage of matter. The authenticity of this document can be tested in trial only.

12. It is also pointed out that, as per the Clause-18 of the Memorandum of Understanding, it was agreed between the parties that original document was to be retained by the applicants. As such, copy of this agreement was in the custody of the present applicants. However, near about two months, same was not produced on the record nor it is a part of a charge-sheet. Upon perusal of the signatures of the applicant's father, co-accused Gajanan Sonwane, and witnesses, are looked into, it is clear that same varies from first agreement, which was executed between the parties. So also, there is no clarification as to why this memorandum of understanding was not submitted by them before the investigation officers. As such, according to the non-applicant No.2, all these variations creates doubt, and it is stated that same was prepared subsequently by the applicants to get benefit of the same in the matter. Therefore, at this stage, a document which is not a part of a chargesheet cannot be relied upon in the matter.

13. On the basis of submission of both the parties, I have perused

the entire record and considered the case laws cited by the parties in the matter.

14. In the circumstances, before considering the merits of the matter, it will be relevant to consider the judgment of the Hon'ble Supreme Court of India in the case of *Pradeepkumar Kesharwani Vs State of Uttar Pradesh reported in 2025 SCC Online 1947*, wherein the Hon'ble Supreme Court of India outlined four structured steps to access a claim for quashing under Section 482 of the Code of Criminal Procedure, 1973. The relevant paragraph No. 20 of the said judgment is reproduced as under:-

20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:—

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal-proceedings, in exercise of power vested in it under Section 482 of the Cr. P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as,

proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]

From perusal of this judgment, it is clear that the four steps are required to be satisfied by the applicants, and only if all four steps are found to be in affirmative, then this Court can exercise the power vested in it under Section 482 of the Code of Criminal Procedure.

15. In the light of observation of Hon'ble Supreme Court, I have considered the submission of applicants. Firstly applicant has relied upon the order of this Court while granting regular bail by this Court. In this regard it is pertinent to note that observation made by this Court while granting bail cannot be made applicable while considering the case for quashment of the proceeding. The criteria required to be considered in both the proceeding is different. Hence, in my opinion this submission of applicants is not acceptable in the matter.

16. The second submission of the applicants is about the lease agreement, to demonstrate premises were given on rent to co-accused. However, it is pertinent to note that, the prosecution and complainant have pointed out from this lease agreement that, earlier lease agreement was of dated 01/06/2020 for a period of one year for running the hotel. Then for period of 2021 to 2024 there was no agreement but suddenly applicant relied upon the agreement i.e. memorandum of understanding is of dated 01/01/2024. The complainant has rightly pointed out this lease agreement was not a part of chargesheet nor same was produced by the applicants during the investigation. So also, there are certain lacunas i.e. there is no mentioned about consideration, the signature of the parties stand varies with the earlier agreement. As per terms of the agreement original copy of the agreement was in the custody of the applicants and

same was not immediately produced by them. As such, quashing cannot be permitted on the basis of disputed documents whose validity is itself in question. Therefore, in my opinion, the material relied upon by the applicants does not rule out the assertions contained in the charges levelled against the accused. So also document relied upon is not sound, reasonable and indubitable or impeccable quality.

17. In the present matter, during the investigation, the prosecution has specifically collected the CDR/SDR records which reveal that the applicants were in contact with the co-accused, Gajanan Sonwane. So also, the record disclosed the fact that names of the applicants were also taken by the co-accused during the course of investigation, stating that they were supervising the hotel. Hence, considering this material, which is available on record it is sufficient to reject and overrule the assertions made by the applicant in his application.

18. It is further pertinent to note that all the assertion made by the applicants are specifically denied by the prosecution. The investigating agency has produced the sufficient material to demonstrate that there is some involvement of applicants in the matter. Therefore, considering the reply and the documents which are collected by investigating officer during investigation justify the accusations against applicants in the matter.

19. In the circumstances, in my opinion this Court cannot conduct a mini trial at this stage to decide whether applicants are involved in the alleged offence or not. At this stage, the validity of the lease agreement cannot be decided by this Court. So also, the offences are of serious nature. The applicants are admittedly owners of the hotel, and the lease agreement is found to be disputed.

In the circumstances, considering the fact that applicants failed to prove that material produce by them is sterling and impeccable quality. The assertions made by complainant are not rule out in its entirety. As such, in my opinion, it is not a fit case for any interference by invoking the powers under Section 482 of the Code of Criminal Procedure, 1973 read with Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023. Hence, applications stands **dismissed**. No order as to costs.

(PRAVIN S. PATIL, J)