



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3339 OF 2023

Sanjana Biren Panikar .... Applicant  
versus  
The State of Maharashtra & Anr. .... Respondents  
.....

- Mr. Ashokkumar Dubey i/b. Savj Law Solutions, Advocate for Applicant.
- Mr. Shrikant H. Yadav, APP for the State/Respondent.
- Ms. Ankita Nishad, appeared through V.C., appointed advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.  
DATE : 26<sup>th</sup> SEPTEMBER, 2024

PC. :

1. This is the second time that the Applicant has approached this Court for her release on bail. On the previous occasion she had preferred Bail Application No.534 of 2020. That application was argued for some time and when I had expressed my disinclination to grant relief, the learned counsel for the Applicant had prayed for unconditional withdrawal of that application. Accordingly it was allowed to be withdrawn. That order was passed on 15/03/2021. More than 3 years have passed and there is no progress in the trial at all besides framing

of the charge. The victim is in Bangladesh. There are 19 witnesses mentioned in the charge-sheet. Besides that, there are many documents which will have to be proved through different witnesses during the trial. The Applicant was arrested on 01/12/2018 and since then she is in custody. She is a lady. Considering these aspects I am entertaining the present application.

2. Heard Mr. Ashokkumar Dubey, learned counsel for the Applicant, Ms. Ankita Nishad, learned counsel for the Respondent No.2 and Mr. Shrikant H. Yadav, learned APP for the State.
3. The FIR is lodged by the victim herself on 30/11/2018. The investigation is over and the charge-sheet is filed. The offence was registered at Faraskhana Police Station, Pune, vide C.R.No.347 of 2018, in which connection, the Applicant is seeking bail. After the investigation as of today, the charge-sheet is filed for commission of offence punishable u/s 369, 344, 366(B), 370(A)(ii), 372, 373 r/w 34 of the Indian Penal Code and u/s 3, 4, 5, 6 of Prevention of Immoral Traffic (Prevention)

Act, 1956 as well as u/s 4, 6, 17 of the the Protection of Children from Sexual Offences Act, 2012

4. The case of the informant is that she was a resident of Bangladesh. She was residing with her parents. About five months prior to lodging of the FIR on 30/11/2018, the Applicant, who was her neighbour, told her that she could get a good job for her in India. On her inducement, the victim agreed to accompany her to India from Bangladesh. On one night, they crossed the border. They first went to Kolkata and then came to Pune. The informant was kept by the Applicant in her house for 2 to 3 days. Thereafter the Applicant forced her into prostitution. It is her case that she was confined and was forced to subject herself to prostitution. On 26/11/2018, she was brought to a place in Pune. The Applicant and her companion handed over the informant to one person and they left the place. That person told the informant that the Applicant and her companion had sold the informant for Rs.30,000/-. The informant started shouting. The people from the road gathered there. One of them took her to the police station and then this

FIR is lodged. The FIR was lodged against the Applicant and two others.

5. Learned counsel for the Applicant submitted that the Applicant is in custody since 01/12/2018. Almost 6 years have passed since her arrest and there is no progress in the trial at all besides framing of the charge. Not a single witness is examined. The submissions of learned APP made on instructions are recorded in the order dated 05/09/2024 passed in this application. It was mentioned that the informant was in Bangladesh. He therefore submitted that the trial is not likely to start soon nor is it likely to end soon. He submitted that, the Applicant has a document to show that in 2018, the informant was about 22 years of age. There is birth certificate of the informant, but it is not forming part of the charge-sheet. He submitted that the allegations are not true. But since the application of the Applicant on merit was earlier withdrawn, he is only making submissions on her continuous detention as an undertrial prisoner without any progress in the trial. He submitted that her right of speedy trial is infringed and therefore

he is seeking her release on bail. He added that the Applicant is a lady and is about 30 years of age. The trial is not likely to conclude within a reasonably near future.

6. Learned APP as well as learned counsel for the Respondent No.2 opposed these submissions. According to them, the offence is extremely serious and therefore instead of granting bail, the trial could be directed to be decided expeditiously. Learned counsel for the Respondent No.2 submitted that besides the informant, there is a mention of another victim, but she conceded that there is no further investigation shown in the charge-sheet in respect of the other victim.

7. I have considered these submissions. Undoubtedly, the offence is serious. But it mainly depends on the evidence of the victim herself. She is at present in Bangladesh. It is very difficult to get her before the Trial Court. Besides the victim, there are statements of the persons like Melkari, the Police Officer Kadam and API Shinde, who had helped the informant in lodging the FIR. The other witnesses are the neighbours at the place where the informant was kept. They are Kalate, Shaikh, Choudhary etc.

They had seen different men visiting that flat where the informant was kept. There are statements of the landlords of the places where the victim was kept. Besides that, there is medical evidence. In spite of all these witnesses and documentary evidence, the main evidence is that of the victim herself, which as mentioned earlier, is important. It is difficult to record her deposition before the Trial Court because the victim is in Bangladesh. The prosecution will have to put serious efforts to lead her evidence before the Court. As of today, it is quite clear that the Applicant is in custody for a very long time. She is a lady. The Trial has not yet started. Not a single witness is examined. The Trial is not likely to get over within a reasonable period. In this view of the matter, only on this ground, the Bail Application of the Applicant can be considered in her favour. There is no doubt that the offence is extremely serious, but the fact that the trial is not likely to conclude soon, cannot be overlooked. The other two accused are already released on bail. The passport of the Applicant is deposited with the investigating agency.

8. In this regard, observations of Hon'ble Supreme Court made in the case of *Javed Gulab Nabi Shaikh Vs. State of Maharashtra and Another, in Criminal Appeal No.2787 of 2024*, are important. The relevant paragraphs read thus :

- “19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.
- 20 We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.
- 21 We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

9. Considering these aspects, I am inclined to grant bail with certain conditions.

10. Hence, the following order :

**ORDER**

- (i) In connection with C.R.No.347 of 2018, dated 30/11/2018, registered with Faraskhana Police Station, Pune, the Applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The passport of the Applicant, which is seized by the investigating agency shall be retained by the investigating agency.
- (iii) The Applicant shall not leave Pune without prior permission of the Trial Court.
- (iv) The Applicant shall attend the concerned Police Station on every Sunday between 04.00 p.m. to 06.00 p.m. till conclusion of the trial.
- (v) The application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**