

Order below Exhibit 1 in Criminal Bail Application No. 28/2020
(Radhabai and Oth. Vs. State)
(Passed on : 03/02/2020)

Nature of the Application

1. This is an application filed by the accused-Radhabai Dhanu Chavan and Maya Namdeo Kirtane (for short 'accused') seeking bail under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C.') in Crime Register (for short 'C.R.') No. 21/2020 registered at Basmathnagar (City) Police Station under Sections 3, 4 and 5 of the Protection of Immoral Traffic Act (for short 'PITA Act').

Contents in the Application

2. The accused have contended that in the first information report (for short 'F.I.R.') lodged by Gajanan More, Assistant Police Inspector (for short 'informant') against them it is alleged that when he with along with other staff effected raid on 18/01/2020 at about 21.50 hours at Jawala Bazar in the area of '*Satara mail tekdi*', they found that the accused were running a brothel in a house and have forced the victim to work there as a prostitute and they were living on the earnings of prostitution and hence C.R. No. 21/2020 is registered against them.

3. They are innocent and have not committed any offence. There is no evidence against them. The offence is registered with ulterior motive and out of suspicion. They are not involved in the offence, as alleged by the informant.

4. Their custodial interrogation is not necessary, any more. No question of recovery is involved. They are ready to co-operate with the police and will not tamper with the prosecution witnesses.

5. On these grounds the accused have prayed to grant the application.

Contents in the Reply of the Investigating Officer

6. The investigating officer (for short 'I.O.') has filed reply through Additional public prosecutor (for short 'A.P.P.').

7. The I.O. has strongly objected the application. He has contended that the accused has committed serious offence. The investigation is in progress.

8. If the application is granted, the accused will tamper the evidence, will threaten the witnesses and will create hurdles in the investigation.

9. On these grounds the I.O. has prayed to reject the application.

The Arguments

10. I have heard Shri. R. G. Kamble, advocate for the accused and Shri. N. H. Nayak, A.P.P. for the prosecution, in extenso.

11. They argued in consonance with the contentions in the application, say and referring the documents produced on record. In order to avoid repetition it is not necessary to note those arguments.

Points and Findings

12. Upon hearing the following points arise for my consideration and I record my findings thereon as under for the reasons to follow :-

	Points	Findings
1)	Whether a case has been made out by the accused for granting the relief of bail, as prayed for ?	No.

2)	What order ?	Application rejected.
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Reasons as to Point Nos. 1 and 2

13. The F.I.R. clarifies that the accused were found running a brothel in a house and have forced the victim to work there as a prostitute and were living on the earnings of prostitution. The accused and the victim were found at the spot of incident which is clear from the F.I.R. itself.

14. An offence under Section 5 of the PITA Act is of serious nature.

15. **The offences with which the accused are charged are increasing day by day. These offences disrupt the society. The time has come when it is necessary to facilitate the investigation into such offences and Courts should not ignore this aspect while considering the question of liberty of the accused. It should be borne in mind that the common good of the society should be properly balanced against the individual liberty. In view of this, sufficient opportunity is required to be given to the investigating agency to facilitate further and proper investigation.**

16. During investigation it is transpired that the accused were running a brothel in a house and have forced the victim to work there as a prostitute and were living on the earnings of prostitution. The statements of the informant and the witnesses make it clear like cloudless sky that the accused have committed the offence, prima-facie. Under such circumstances, it cannot be said that the accused are falsely implicated in the offence with any ulterior motive.

17. The allegations in the F.I.R. are self speaking and

considering all the facts and the intention gathered from all the circumstances it could be said that case is made out under Sections 3, 4 and 5 of the PITA Act against the accused, prima-facie and as the involvement of the accused in the offence is clear, they are not entitled for bail.

18. I am unable to persuade myself with the argument advanced by Shri. Kamble, advocate for the accused that they are entitled for bail because (i) they have not played any role in committing the crime (ii) they are innocent and (iii) there is delay in lodging F.I.R.. The reasons are :-

- That, during investigation it is transpired that the accused have committed the offence.
- That the offence alleged against the accused is very serious.
- **That the offence is registered on the report of Assistant Police Inspector hence the question of involving the accused out of any rivalry or merely on suspicion will not arise.**
- That lodging of F.I.R. belatedly is no ground at this stage to hold that whatever is alleged by the accused is true. The effect of delay can very well be taken care of at the time of trial if the investigation ends in filing of charge-sheet.
- That in view of my findings, supra.

19. It is well settled that the provision of bail under Section 439 of the Cr.P.C. is meant for saving the innocent person from unnecessary detention. The said provision cannot be used for a person,

who prima-facie, is involved in criminal activities.

20. To sum up, the offence with which the accused are charged is of serious nature. **There is prima-facie evidence to hold their involvement in the offence under Sections 3, 4 and 5 of the PITA Act. The investigation is at primary stage and is in progress. All the various ends of the offence will have to be still found.** If the application is granted it will definitely hamper the investigation. The possibility of the accused committing similar type of offence cannot be ruled out considering their involvement in the offence. The involvement of the accused in the crime registered against them is clear as there is direct evidence to connect them with the offence under Sections 3, 4 and 5 of the PITA Act. If that be so, the contention of the accused that they are innocent and are falsely implicated in the crime, can not be accepted, prima-facie.

21. Considering the above-mentioned facts and circumstances of the case, I am declined to grant bail to the accused.

22. It is made clear that the observations made in this order are made for the limited purpose of this application only and shall not have any effect on the merits of the case under investigation and all parties are at liberty to agitate their respective cases at the time of inquiry or trial in the case under investigation on merit without being prejudiced even in the least by any of the observations made in this order.

23. Accordingly, I answer point No. 1 in the negative and point No. 2 as application rejected.

24. In the result, following order :-

ORDER

1.	The application is rejected.
2.	The police papers be returned.

(Pronounced in Open Court).

Date : 03/02/2020.

(M.B.Lambe),
Additional Sessions Judge,
Basmathnagar.