

RCC No.64/2022
State Vs. Ramdas Kakade
U/s 3, 4 and 5 of PITA Act**Order Below Bail Application Exhibit - 4**
(Passed on this 19th day of October,2022)

1. Subsequent bail application is preferred by the accused after filing of chargesheet. The accused is prosecuted for the offence punishable under Section 3, 4 and 5 of Immoral Traffic (Prevention) Act 1956, (hereinafter referred as PITA in short).

2. Accused submitted that, the accused was arrested on 24/08/2022 since he is in jail. He was taken into judicial custody by order dated 24/08/2022. The accused is permanent resident of Parseoni. He is law abiding and peace loving citizen. The accused is falsely implicated in the present crime. He has no concern whatsoever with the crime. Investigation of the present crime is already completed and chargesheet is came to be filed on 14/10/2022. Further custody of accused is not required for further investigation. There is no possibility of absconding. The accused is innocent person. Maximum punishment is of 3 years imprisonment prescribed to the present case in hand. No purpose will serve by keeping behind the bar. The accused has undertaken that, he will not abscond or jump on the bail. Accused will co-operate to the police authority whenever is require. Even accused will regularly attend during the trial. He will not hamper or temper the prosecution witnesses in any manner. Accused is ready to furnish surety and abide terms and conditions imposed by the Court.

3. Learned APP Shri. V. K. Potfode for the prosecution has filed say and strongly objected the subsequent bail application of accused. It is contended that, the accused has committed serious offence under Section 3,4 and 5 of PITA Act. One of those offences is punishable with imprisonment of 7 years. There are many crimes are registered against the present accused in the Parseoni Police Station. The accused was running Hotel, Restaurant, and bar business. He was syndicating and operating sex racket from another state and from several district of State of Maharashtra. However, 7 victims were rescued by police from the custody of accused, when he was running brothel. Further it is contended that, the bail application was pleased to be dismissed by the Hon'ble Sessions Court, Nagpur. The accused has filed subsequent bail application after filing of chargesheet. There is no change in circumstances at all and no facts warranted to grant the bail application in favour of the accused. Sufficient evidence is found against the accused. Accused shall not be release on bail. Otherwise he will misuse bail by threatening and inducement to the prosecution witnesses. All these grounds requested to reject the bail application.

4. Learned advocate Shri. M. D. Paliwal for the accused argued that, the accused is in jail since 24/08/2022 till today. Offence under Section 3 of PITA Act is punishable with imprisonment of one year and offence punishable under Section 5 is punishable with 3 years imprisonment. The nature of offences is not much grievous. Earlier bail application was dismissed on the ground of the suspicious circumstances about the age of victim. But it has come on record that, all the victims are major. The present case is triable by this Court and

this Court has exclusive jurisdiction to grant bail. Further he argued that, the filing of the chargesheet would amount to the change in circumstances. Investigation is completed, therefore, there is no possibility of hampering and tampering of the prosecution evidence. The accused may be release by imposing strict terms and conditions. The accused is local resident of Parseoni and running business within locality of Tahsil Parseoni. In such circumstances there is no possibility of absconding.

5. On the contrary APP Shri. V. K. Potfode for the prosecution argued that, the accused has committed the serious offence under PITA Act. The accused has procured income from sex workers by running brothel. First bail application was preferred before this Court and this Court has dismissed first bail application. Later on the accused preferred second bail application before the Hon'ble Sessions Court which is also pleased to be dismissed and upheld order of this Court. Investigation is completed and there are strong evidence available against the accused. Mere filing of the chargesheet do not amount to the change in circumstances to grant subsequent bail application. On the contrary the accused has not brought any special facts which are tend to be show that, there is change in circumstances and invoke power of this Court. The accused has strong network not only within State of Maharashtra but also out of State. Therefore, there is possibility of threat and inducement to the prosecution witnesses. Hence, all these grounds requested to reject the bail application.

6. Considering submissions of both sides following points of determination are arise for my consideration. Those are given alongwith my finding as under:-

S.N.	Points	Findings
1.	Whether accused has made out case and brought genuine change in circumstance?	...In negative.
2.	Whether accused is entitled for release on bail after filing of chargesheet?	...In negative.
3.	What order?	...Application is dismissed

REASONS

As to Point No.1 and 2:

Both points are interlinked with each other to avoid repetition both are discussed together.

7. Perused the entire chargesheet and FIR. The accused was arrested on 24/08/2022 and booked for the offences punishable under Section 3, 4 and 5 of PITA Act 1956. On 28/08/2022 the accused preferred first bail application before this Court, which was decided on 30/08/2022. Ultimately said first bail application was also please to be dismissed. According to the APP Shri. V. K. Potfode the accused has preferred second bail application before the Hon'ble Sessions Court, Nagpur and it was also pleased to be dismiss. Here pertinent to note that, the accused has not disputed the dismissal of second bail by the Hon'ble Sessions Court, Nagpur. Therefore, the accused has to brought strong and genuine facts about change in circumstances at this stage.

8. Further perusal of the chargesheet, it would show that, the accused was caught by the police while running the brothel in his bar, restaurant and lodging business. There were 7 victim girls rescued by the police. On perusal of the statement of the victim girls it would show that the accused was procuring income from the victim girls.

9. Even one of victim's statement show that, she did 7 to 8 times sexual intercourse with the customers sent by accused in single day. Further it would show that, the accused was actively involved in the present crime. Even several condom packets and used condom were seized by the police. Even the accused has maintained the diary of sex workers, which show that he was running the syndicate of said business. Further on perusal of the statement of the witnesses, it would show that, the accused has maintained syndicate not only within the region of Maharashtra but also out side of the State of Maharashtra. During preliminary inquiry 6 victims are released by this Court, but one of the victim is kept in protective home for rehabilitation and counseling for the period of one year. Considering this fact, I find that, the possibility of the tampering and hampering or threat and inducement to the prosecution witnesses. If the accused is release on bail.

10. On perusal of the earlier bail application order it does not show that, it was rejected on the ground of age of minor victim. On the contrary the inquiry under Section 17 was in progress at the relevant time. Therefore, I do not find any substance in the submissions of advocate Shri. M. D. Paliwal that, earlier bail application was

considered on the ground of age of the victim. Therefore, this fact do not fall in category of change in circumstances.

11. The accused has come with the plea that, the completion of investigation and filing of chargesheet would amount to the change in circumstances to release on bail. But in my considered view that, the accused must show the real and genuine fact which may inclined to consider the subsequent bail application. On the other hand, the earlier bail application was rejected on the ground that, these offences under Section 3, 4 and 5 of PITA Act have social impact. But the accused has not brought any fact on record which may tend to show that, at present these offences have not social impact. It is also pertinent to note that, the first bail application was considered by taking into account quantum of sentence punishable under Section 3, 4 and 5 of PITA Act. Therefore, I am of the view that, accused cannot re-agitate the ground of quantum of sentence prescribed under Section 3, 4 and 5 of the PITA Act.

12. Here pertinent to note that, one of the victim is kept in the protective home for the period of one year. In such circumstances it is not proper to release the accused on bail and keep the victim in the protective home. There should be the balance between the accusation and victimization. This is also one of the ground which, I am not inclined to grant the bail. Mere filing of the chargesheet would not amount to the change in circumstances, but it is just completion of the investigation process. Now it is proper stage for taking cognizance against the accused. Therefore, I am not inclined to consider this

subsequent bail application on the ground of change in circumstances as to the filing of the chargesheet. Apart from that, I have already observed that, there is possibility of threat and inducement to the prosecution witnesses which is likely to be affect on the prosecution case. Hence, present subsequent bail application is devoid of merit and liable to be dismissed. Therefore, finding of point no.1 and 2 are given in negative.

As to Point No.3:

13. In view of answer of finding of point no.1 and 2, I am come to conclusion that, the present subsequent bail application is deserve to be dismissed. Hence, I pass the following order:-

ORDER

1] Application Exh.4 is hereby dismissed.

Parseoni.
Date:19/10/2022

(O. J. Kulkarni)
J.M.F.C.Parseoni