

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3136 OF 2025

Soniya Sandesh Tarkar	...Applicant
<i>Versus</i>	
State of Maharashtra & Anr.	...Respondents

Mr. Akash Kavade, with Ankit Takal, i/b Tarsem Singh Gabbi, for the Applicant.

Mrs. R.S.Tendulkar, APP for the Respondent-State.

Ms. Sandhya Nair, with Bhujang More and Rupesh Kamble, for the Respondent No.2.

Mr. Ajay Kumble, API attached to Bandra Police Station, present.

CORAM: R. M. JOSHI, J.

DATED: 24th APRIL, 2026.

PC:-

1. The Applicant seeks bail in connection with Crime No. 0266 of 2025, dated 16th February 2025 registered with Bandra Police Station, Brihanmumbai City for the offences punishable under Sections 64(1), 96, 143(3), 143(4), 144 of the Bharatiya Nyaya Sanhita (BNS), 2023; Sections 3, 4, 5 of the Immoral Traffic (Prevention) Act, 1956; Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Sections 81 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2. In short, it is the case of the prosecution that on the basis of information received that the present Applicant and the Co-

accused are compelling the minor Victims into prostitution, pre-trap panchanama was prepared. Dummy customers i.e., panchas were asked to visit the place where the prostitution is done. It is the case of the prosecution that the dummy customers went to the premises wherein the present Applicant, the Co-accused as well as the minor Victims were present. There is an allegation that a sum of Rs.50,000/- was sought to be handed over to the Co-accused by the dummy customers. The Co-accused asked the present Applicant to receive the said amount. During the course of investigation, statements of the Victims was recorded. Similarly, mobile phone as well as the amount received by the Applicant were seized under the panchanama. On conclusion of investigation, charge-sheet is filed.

3. Learned counsel for the Applicant submits that there is absolutely no evidence on record to show involvement of the present Applicant in the crime. It is his submission that the statements recorded during investigation only indicates that the Applicant was the care taker in the house. He drew attention of the Court to the statement of the Victim recorded by the Police as well as before the Magistrate indicating no attribution against the Applicant. It is contended that specific allegations are made against the Co-accused excluding the Applicant. He therefore, seeks bail.

4. The learned APP and learned counsel for the Respondent No.2 oppose the Application. It is their contention that in the presence of Police personnel, the Applicant has accepted the guilt and pursuant to her statement, two mobile phones were recovered at her instance. It is submitted that on the basis of the said mobile

phones that What's App messages therein, shows involvement of the Applicant in the crime. It is further claimed that having regard to the serious nature of the crime, the Application deserves to be rejected.

5. There is no dispute about the fact that the offence charged against the Applicant is serious in nature. The question arises at this stage, before this Court, as to whether there is *prima-facie* evidence on record to indicate involvement of the Applicant in this crime. on the face of it, it is necessary for the prosecution to show that the Applicant was compelling the Victim girls into the prostitution and was living on the earnings of the prostitution.

6. As rightly argued by the learned counsel for the Applicant, statements of the Victim girls does not attribute any allegation against the present Applicant. On the contrary, specific statements are made against the Co-accused. In this back-drop, perusal of the panchanama shows that the money was offered to the Co-accused, who, in turn, asked the Applicant to receive the same. If the case of the Applicant is accepted to be correct that she was the care-take of the said house, mere acceptance of money at the behest of the Co-accused, will not amount to an offence.

7. Since it is the case of the prosecution that mobile phones were seized at the instance of the Applicant, and there is incriminating material therein, it was further obligatory on the part of the Investigating Agency to investigate as to the ownership of the said mobile phones, and to show that the mobile phones can be connected with the present Applicant. On the face of it, no such investigation seems to have been carried out.

8. *Prima-facie*, therefore, except for the fact, which appears from the statement on record, that the Applicant was the care-taker in the house, there is no other material to accept her involvement in the crime. Hence, on conclusion of investigation, the Applicant's custody cannot be detained and following order is passed:-

ORDER

(i) The Bail Application stands allowed in connection with Crime No. 0266 of 2025, dated 16th February 2025 registered with Bandra Police Station, Brihanmumbai City;

(ii) The Applicant be released on bail on furnishing P.R. Bond of Rs.30,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court;

(iii) The Applicant not to interfere into the evidence of the prosecution in any manner whatsoever;

(iv) The Applicant not to contact the Victim girls or any witness in this Crime in any manner whatsoever;

(v) The Applicant to attend all the dates of hearing before the Trial Court except exempted by a specific order by the Trial Court;

9. The Bail Application stands disposed of.

(R. M. JOSHI, J.)

SHAMBHAVI
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