

(2025) 05 DEL CK 0863

In the Delhi High Court

Case No : Bail Application NO. 3239 Of 2024 & Criminal Miscellaneous
Application No. 29064 Of 2024

Abhay Kumar Yadav Alias Pintu

APPELLANT

Vs

State Nct Of Delhi

RESPONDENT

Date of Decision : 13-05-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 164, 164
Indian Penal Code , 1860 — Section 34, 109, 120B, 323, 365, 370, 384, 506
Immoral Traffic (Prevention) Act, 1956 — Section 3, 4, 5

Citation : (2025) 05 DEL CK 0863

Hon'ble Judges : Dr. Swarana Kanta Sharma, J

Bench : Single Bench

Advocate : Manoj Pant, Puja Mann

Final Decision : Allowed

Judgement

Dr. Swarana Kanta Sharma, J

1. The applicants have preferred these applications seeking grant of regular bail in FIR No. 160/2022, registered at Police Station Chanakyapuri, Delhi for commission of offence under Sections 323/365/370/384/506/109/120B/174 of the Indian Penal Code, 1860 [hereafter 'IPC'] and Sections 3/4/5 of the Immoral Traffic (Prevention) Act, 1956 [hereafter 'ITP Act'].

2. The facts, as revealed from the record and which led to the registration of the present FIR against the applicants, are that a complaint, accompanied by a letter from the Secretary of 'Delhi for Empowering Humanity' (the complainant), was received at P.S. Chanakyapuri, Delhi. It was alleged that seven victims, all citizens of Uzbekistan, had been trafficked and forced into prostitution in India by the present applicants/accused. It was further alleged that some of the victims were brought to Delhi via Nepal, while others came directly to India on tourist or medical visas on multiple occasions. Those brought via Nepal allegedly had their passports and travel documents confiscated in Nepal itself, before being brought

to Delhi. Similarly, the women who entered India on medical visas had their passports taken away by the traffickers upon arrival. The victims claimed they were lured to India on the pretext of being offered legitimate jobs, but were instead coerced into prostitution and subjected to sexual slavery. On resisting, they were threatened with arrest, as they were told they were residing illegally without valid visas. The victims were allegedly sold to different individuals during their stay in Delhi and repeatedly exploited in sex rackets. Eventually, they had managed to escape and reached the gate of the Uzbekistan Embassy. It is further alleged that two accused persons, Aziza Sher and her husband had arrived at the Embassy gate and kidnapped one of the women at gunpoint. However, after being contacted over the phone, the kidnapped woman was released by the traffickers. Thereafter, the Uzbekistan Embassy handed over all seven victims to the NGO, with an independent journalist and social activist Mr. Hemant Sharma. Based on this complaint, the present FIR was registered against the accused persons.

3. During investigation, all the seven victims were medically examined and their statements under Section 161 and 164 of the Code of Criminal Procedure, 1973 [hereafter 'Cr.P.C.'] were recorded.

4. Two victims, identified as 'IZ' and 'UY' disclosed that the applicant Pintu (Abhay) acted as a broker who, along with others including Maral, trafficked and forced them into prostitution. Victim 'JZ' narrated that she was lured from Uzbekistan with the false promise of a hotel job in Dubai but was instead taken to Kathmandu and then brought to Delhi via Gurugram, where she was forced into sex work. Her passport was confiscated, and she was threatened, assaulted, and sold between various brokers. Similarly, victim 'UY' was misled by a friend with a job offer in Dubai, routed through Kathmandu, and trafficked to Delhi, where her passport was taken under threats of acid attack. She too was forced into prostitution, beaten, and moved across locations before managing to escape with the help of an NGO and reaching the embassy.

5. Further, victim 'TN' in her statement alleged that after being brought to Delhi by her boss Aziza, she was forced into prostitution and subjected to physical abuse, including being burned and beaten. She stated that after initially working with one agent, she was later sent to Mahipalpur where she met the applicant/accused Ashok, who acted as a pimp and kept her for about two months. During this period, she was made to continue in prostitution under his control. Eventually, after nearly eight months, she managed to escape and reach the Uzbekistan Embassy in Delhi.

6. The aforementioned three victims, and one another victim 'MD' also disclosed in their statements that applicant Pankaj was one of their brokers, who had forced them into prostitution.

7. During the course of investigation, accused Narjan Sharzay was arrested on 03.09.2022; accused persons Jumayeva Aziza and Meredov Ahmad were

arrested on 16.09.2022; and accused Utkirbek Khalilov @ Ali was arrested on 05.11.2022. A chargesheet against these accused persons was filed on 01.12.2022. Subsequently, accused Kuzbyeva Maral @ Maryam was arrested on 04.07.2023, and a first supplementary chargesheet against her was filed on 24.08.2023. On 07.10.2023, accused persons Aziza Tanrykulyyeva and Sherzot Afghan were arrested. Based on further investigation and disclosures, applicants/accused Ashok Kumar Yadav, Pankaj @ Rocky, and co-accused Rajveer Singh @ Rajbir were arrested on 09.10.2023. A second supplementary chargesheet against these five accused was filed on 02.12.2023. Thereafter, on 12.06.2024, applicant/accused Abhay Kumar Yadav @ Pintu was arrested by the Crime Team in FIR No.148/2022, AHTU/Crime Branch, Sector 16, Rohini, Delhi, and was formally arrested in the present case on 10.07.2024. A third supplementary chargesheet against him was filed on 23.08.2024. Thus, a total of eleven accused persons were arrested during the investigation. One of them, Utkirbek Khalilov @ Ali, was discharged by the learned Trial Court, and charges were framed against the remaining ten accused. Co-accused Rajveer Singh @ Rajbir was granted bail by a Coordinate Bench of this Court on 11.09.2024.

8. The learned counsel appearing on behalf of the applicants submits that five of the victims in the present case remain untraced during the course of investigation and that the trial is taking an unduly long time to conclude. The learned counsel argues that the applicants have been falsely implicated in the present case and that there are not only material contradictions in the statements recorded by the police but also inconsistencies in the statement of one of the victims recorded before the learned Trial Court. It is contended that the present applicants had not committed the alleged acts of kidnapping or human trafficking. It is also argued that the present case was initiated at the instance of an NGO, which is run by one Mr. Hemant Sharma, who has concocted this frivolous story to seek monetary gains. It is submitted that applicant Pankaj has been in judicial custody for about 1 year and 7 months, applicant Ashok has been in judicial custody for about 1 year and 2 months (since he was on interim bail for about 5 months), and applicant Abhay has been in judicial custody for about 10 months.

9. Insofar as applicant Abhay is concerned, it is submitted that although his name appeared in the Section 164 of Cr.P.C. statements of victims 'IZ' and 'UY', no action was taken by the police for a considerable time, and the applicant was arrested only in 2024 without any new material or changed circumstances. Moreover, both the said victims have since absconded and are believed to have left India, rendering their statements unverifiable. It is argued that the applicant was merely working as a cab driver for co-accused Maral, having joined just six months before the incident, and had no knowledge of or involvement in any illegal activity.

10. As far as the applicant Pankaj @ Rocky is concerned, it is argued that he worked only as a part-time taxi driver, responding to calls from Sabina or the

victims for transport services; he was neither a permanent employee nor involved in the operation of the alleged trafficking racket. His limited role was confined to providing occasional transportation, and he had left the job after a few weeks.

11. Similar submissions are made for applicant Ashok, who also worked as a part-time taxi driver at Sabina's instance and had no active role in the alleged offences. It is further argued that Ashok had remained on interim bail for nearly five months and did not misuse the liberty so granted to him.

12. It is accordingly prayed that the applicants be released on regular bail.

13. The learned APP for the State, assisted by the learned amicus curiae appointed by this Court, opposes the bail applicants and submits that even though some of the victims remain untraced, the surrounding circumstances clearly point to the culpability of the applicants herein. It is contended that considering the grave nature of the offence and seriousness of allegations, the present bail applications be rejected.

14. This Court has heard arguments addressed on behalf of both the parties and has perused the material available on record.

15. In the present case, during the course of arguments, the learned APP for the State, on instructions, informed the Court that five victims, out of seven, are untraced. On the other hand, a letter has been received from the learned Trial Court on 20.02.2025, seeking extension of time for concluding the trial. The relevant extract of the said letter reads as under:

"It is respectfully submitted that in the present case, ten accused persons have been facing trial for serious offences of Human Trafficking and rape. There are total 7 victims. All the victims are Uzbek national and came to Delhi. The statements of the all the victims are very lengthy and to be cross examined by counsels on behalf of the ten accused persons. Furthermore, the testimony of the victims are to be recorded with the help of translator in the facility of Vulnerable witness deposition complex.

The matter was listed for recording of testimony of PW2 for 20.02.2025 and 21.02.2025. The evidence could not be recorded today due to call of work abstain by bar association. The testimony of one of the victims/PW-I has already been recorded.

In the attending facts and circumstances, it is humbly requested that this court may be granted sufficient time to conclude the testimony of the victims. The court undertakes to expedite recording of the deposition of the victims."

16. Several contentions have been raised on behalf of the applicants, including the delay on the part of the prosecution in arresting them, the nature and extent of their individual roles, and other circumstances surrounding their implication. However, at this stage, when the trial is still underway, this Court refrains from

delving into a detailed analysis of the merits of the case, lest it affects either the case of prosecution or the defence of the accused during the course of the trial.

17. Considering the overall facts and circumstances of the case, including the period of custody already undergone by the applicants, and in particular, the report submitted by the SHO/Investigating Officer stating that five out of seven victims are presently untraceable for the purpose of recording their statements, and further bearing in mind that the trial is likely to take considerable time to conclude, this Court is inclined to grant regular bail to the applicants herein, on their furnishing personal bond in the sum of Rs. 20,000/- each with one surety each of the like amount, to the satisfaction of the learned Trial Court/Successor Court/Link Court/Duty Judge concerned, subject to the following terms and conditions:

- i) The applicants shall not leave the country without prior permission of the concerned Court.
- ii) The applicants shall not directly or indirectly contact the victims and not make any attempt to influence the witnesses, or tamper with the evidence in any manner.
- iii) In case of change of residential address/contact details, the applicants shall promptly inform the same to the concerned Court.
- iv) The applicants shall appear regularly before the learned Trial Court.

18. Accordingly, the present bail applications stand allowed and are disposed of.

19. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

20. The judgment be uploaded on the website forthwith.