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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.5 OF 2015

Prakash Sahar Yadav ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Aniket Vagal, for the Applicant.

Ms. A. T. Javeri, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATED : 23rd MARCH, 2015.

P.C.

1. Heard learned counsel for the applicant and the learned APP for the Respondent – State.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-232 of 2013 registered with the Mahatma Phule Chowk Police Station, Thane, for the alleged offences punishable under Sections 376, 370(1)(2), 370(A)(2), 216, 323, 504, 506 of the Indian Penal Code and under Sections 3, 4, 5 and 6 of the PITA Act.

3. According to the prosecution, the prosecutrix had come to Mumbai with her husband in 2013. It is alleged by the prosecutrix, that they met one person by the name Raju Roy, who assured to give work to the prosecutrix and her husband. The co-accused - Raju Roy sent the husband of the prosecutrix, to Kolhapur for some labour work and on the pretext of taking the prosecutrix for doing domestic work, committed sexual assault on the prosecutrix, several times. The co-accused – Raju Roy is alleged to have thereafter taken the prosecutrix to 'Dream Land Lodge' and 'Arya Lodge'. It is alleged that the present applicant along with one Pradeep Mahanti, who were the Managers of 'Arya Lodge' and 'Dreamland Lodge' would compel the prosecutrix into prostitution, against her wish. It is alleged that on 13th April, 2013, when the prosecutrix's husband came back from his work, she disclosed the same to her husband, pursuant to which a complaint came to be lodged.

4. Learned Counsel for the Applicant sought bail of the applicant on the ground of parity and on merits. He submitted that the role of the present applicant is similar to the role alleged by the prosecutrix as against Pradeep Mahanti and Raju Roy. According to the learned counsel

for the applicant, the present applicant has not been identified nor is the full name of the present applicant disclosed by the prosecutrix. He submitted that considering the nature of evidence and the likelihood that the trial will take some time, the applicant be enlarged on bail.

5. Learned APP opposed the bail application. She submitted that the applicant was absconding, after the arrest of co-accused Pradeep Mahanti and Raju Roy. She has filed a detailed affidavit of the Investigating Officer in the said case, which shows that despite search of the applicant the applicant, was not found and that he was absconding. She submitted that the applicant is a resident of Jharkhand and has no place of permanent residence in Mumbai. She submitted that the complicity of the applicant is evident from the fact, that the prosecutrix has clearly disclosed in her statement, that Prakash i.e. present applicant had compelled her into prostitution along with others.

6. Perused the charge-sheet and the statement of the prosecutrix. It appears that the incident had taken place on 14th April, 2013 and the charge sheet in the said case was filed on 15th June, 2013. In the said charge-sheet the applicant was shown as an absconding accused and

thereafter he was arrested only on 28th August, 2014. The nature of allegations as against the present applicant are serious. Apart from the aforesaid, the fact that the applicant was absconding from 14th April, 2013, till his arrest i.e. 28th August, 2014 i.e. for more than a year is sufficient to reject the application of the applicant. Even otherwise, in the present case, charge has been framed and witness summons have been issued. As far as parity is concerned, the co-accused Pradeep and Raju Roy who are enlarged on bail were arrested soon after the incident and were not absconding, like the present applicant. The applicant is not a permanent resident of Mumbai and hence it will be difficult to secure his presence at the trial, which has already commenced.

7. Considering the nature of allegations and the fact that the applicant was absconding, this is not a fit case to enlarge the applicant on bail.

8. Hence, the Application for bail is rejected and disposed of as such. However, the trial is expedited. The Trial Court shall make an endeavour to conclude the trial, as expeditiously as possible, and preferably within one year from the date of receipt of this order.

9. Needless to observe, that the trial court shall decide the case on its own merits, uninfluenced by the observations made in this order.
10. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)