

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.705 OF 2015

Wilfred Raphal Binnis .Applicant

V/s.

The State of Maharashtra .Respondent

Mr.P.M.Patil, Advocate, for the Applicant
Mrs.S.S.Kaushik, APP, for the Respondent -
State

CORAM : REVATI MOHITE DERE, J.

DATE : 5TH MAY, 2015

P.C.

. Heard the 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.354 of 2014 registered with the Nerul Police Station, Navi Mumbai, for the alleged offences punishable under Sections 376(2), 376D, 366A, 328, 120B, 506(2) of the

Indian Penal Code, under Sections 4, 5 & 7 of the Immoral Trafficking Act and under Sections 4, 8, 5(1) & 6 of the Protection of Children from Sexual Offences Act.

3. The alleged incident has taken place on 10.10.2014. It is alleged that a raid was conducted by Nerul police on Baldev Palace. It is alleged by the prosecutrix in her complaint dated 03.10.2014 that from the year 2011 she was induced by accused No.1 Justin and accused No.3 Nitesh and was taken to a lodge, where she was administered drugs by the accused Nos.1 and 3 and was compelled to indulge in sexual acts with various persons. The learned counsel for the applicant submits that there is no material as against the present applicant to connect him with the alleged offences. He submits that the applicant was the Manager of Baldev Palace and that the owner of the said lodge was one D'souza. He submits that in fact, the statement of the

Manager i.e. the applicant was recorded by the police, initially as a witness and subsequently he has been arrayed and arrested as an accused in the said case. He submits that the victim-girl has not named the present applicant nor has she ascribed any role to the present applicant in her FIR/Statement. He submits that the applicant is neither alleged to have administered drugs to the victim-girl nor is he alleged to have induced or compelled the victim girl into prostitution activities; nor are there any allegations of 376 as against the applicant.

4. The learned APP is unable to point out the complicity of the applicant. She however, has expressed an apprehension, that as the applicant hails from Karnataka, he may not be available for trial. The said apprehension can be taken care of by imposing stringent conditions.

5. Perused the charge-sheet. There are no allegations of either 376 or of administering of drugs to the victim girl or of compelling her into prostitution as against the applicant. Considering the aforesaid material on record and the fact that investigation is complete and charge-sheet is filed, the applicant is entitled to be enlarged on bail on the following terms & conditions:-

(i) The applicant be enlarged on bail on executing P.R.Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount;

(ii) The applicant shall attend the Nerul Police Station, Navi Mumbai on the 1st Sunday of every month between 10.00 a.m. to 11.00 p.m.;

(iii) The applicant shall not leave Mumbai and Thane, without prior permission of the

trial Court, till the conclusion of the trial;

(iv) The applicant shall not tamper or attempt to influence the witnesses or any person concerned with the said case;

(v) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the investigating officer of the Nerul Police Station, Navi Mumbai;

(vi) The applicant shall co-operate in the conduct of the trial;

(vii) The applicant shall give an undertaking within one week from his release with regard to the aforesaid clauses to the trial Court;

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the

applicant's bail.

6. The aforesaid observations are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)