

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1384 OF 2015

Laxmi Ashok Tiwari @
Usha Kamlesh Tiwari

..Applicant/Accused

Vs.

The State of Maharashtra

..Respondent

Ms.Anjali Patil for the Applicant.

Ms.S.D.Shinde, APP for Respondent – State.

PSI Vivek Lamture for Malvani Police Station.

CORAM : A.S. GADKARI, J.

DATE : 17th December 2015.

P.C.

1. The applicant is seeking bail in C.R.No.50 of 2015 registered with Malwani Police Station, Mumbai under Sections 366(A), 370(A), 370(3) of the Indian Penal Code and under Section 3, 4, 5, 7(i)(B) of the Prevention of Immoral Traffic Act, 1986 (PITA) and under Sections 4, 8, 17 of the Protection of Children from Sexual Offences Act, 2012. (POSCO).

2. The prosecution case is that the applicant was conducting a brothel at the address mentioned in the FIR . On specific information the police conducted raid on 22nd January, 2015 on the said brothel. At the time of raid two minor girls were found in the house of the applicant. The applicant was running the said brothel in a densely populated locality. After complain of investigation the police filed charge-sheet on 23rd February, 2015.

3. The learned Counsel for the applicant submitted that in the entire charge-sheet, the statement of the alleged minor victim girls are missing. Likewise the medical evidence to the effect that the girls were in fact minor at the time of conducting the raid by the police on 22nd January, 2015 is also missing. She therefore submitted that as of today there is no evidence before the court that said two alleged minor girls who were found at the time of conducting the raid were in fact minor.

4. The learned APP has produced the statement dated 23rd October, 2015 and 28th October, 2015 of the alleged two victim minor girls respectively. It is apparent that the police have recorded the statement of the alleged victim girls after about 10 months from the date of conducting the raid and after about seven months from the date of submission of the charge-sheet before the court.

5. With a view to justify the belated recording of the statement learned APP drew my attention to the order dated 17th October, 2015 and submitted that the said statements were recorded under the direction of this Court which were issued by the said order. The perusal of order dated 17th October, 2015 discloses that concerned APP on instructions from the investigating officer had made a statement that the process of recording of the statement of the minor girl was scheduled on 23rd October, 2015 by the Child Welfare Committee. Further it appears from record that the investigating agency did not take any steps to record the statement of the victim girls immediately after conducting the raid. It also appears that medical evidence pertaining to the age of the said minor victim girls was also not collected by the investigating agency.

6. In view of the above, the applicant has made out a case for grant of release on bail. Hence the bail order:

(i) The applicant be released on bail in C.R. No. 50 of 2015 registered with Malvani Police Station, the applicant shall be released on furnishing PR Bond of Rs. 50,000/- with one or two solvent local sureties in the like amount.

(ii) After her release from Jail the applicant shall attend Malvani Police Station on every first Monday of the month between 10.00 am and 12.00 noon.

(iii) The applicant shall furnish proof of her residential address to Malvani Police Station and also to the trial Court.

(iv) The applicant shall not tamper with evidence and / or influence the prosecution witnesses.

(v) The application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)