

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1030 OF 2015

Jyoti Nagappa Kattimani ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.A.U. Nikam for the Applicant
Ms.Veera Shinde, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JULY 31, 2015**

P.C.:

1. The application is moved for pre-arrest bail as the applicant/accused is apprehending arrest in C.R. No.79 of 2015 registered with the Faraskhana police station, Pune for the offences punishable under sections 363, 366A r/w 34 of the Indian Penal Code and under sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956. It is the case of the prosecution that one Shyam D. Kamble, who is a social activist, gave information to the police that prostitution was going on at House Nos.1047 and 1070, Old Welcome Building, Budhwar Peth, Pune. Pursuant to that information, he alongwith the police raided the premises. They found that in the House No.1070, 3 girls including one minor girl and owner of the brothel one Mr.Sachin was arrested. Thereafter, they went and raided the premises No.1047 i.e., the place standing in the name of the

applicant/accused. One lady was found. She was a victim and she informed that this brothel is run by the applicant/accused and she gave her half the amount out of whatever she used to receive from prostitution.

2. The learned Counsel for the applicant/accused submitted that out of the sections under which the applicant/accused is apprehending arrest, section 363 is bailable and section 366A is non-bailable. He submitted that section 366A cannot be made applicable because the lady who was found there was 25 years old. He further submitted that sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act which are invoked are also *prima facie*, cannot be applicable. He submitted that sections 3, 4 and 7 are bailable and section 5 thereof is non-bailable and it pertains to procuring a woman for prostitution without consent. However, in the present case, the victim has told police that she was in the prostitution on her own because she was in need of money. Under such circumstances, the applicant/accused is to be released on bail.

3. Learned Prosecutor has opposed the application and submitted that one offence of similar nature is registered against the applicant/accused in 2011 and hence, she submitted that the applicant/accused should not be granted pre-arrest bail.

4. Perused the FIR, examined the facts under section 366A and section 5 of the Immoral Traffic (Prevention) Act which are non-bailable.

Prima facie, it appears that these sections cannot be invoked as the lady is not a minor and she was in the prostitution on her own. In view of this, I am inclined to grant pre-arrest bail on the following conditions:

- i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/-, with one or two solvent sureties in the like amount;
- ii) The applicant shall not tamper with the evidence;
- iii) The applicant shall not indulge into any kind of offence while on bail;
- iv) The applicant/accused shall furnish her permanent and temporary address, if any, to the Investigating Officer;
- v) The applicant shall cooperate with the Investigating Officer and attend the concerned police station on every Monday, between 11am to 1pm, till filing of chargesheet.

5. Anticipatory Bail Application is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)