

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

CRI. BAIL APPLICATION NO. 925 OF 2016

Sharad Mahadu Saraf

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Aniket U. Nikam, Advocate for the Applicant.

Mrs. Veera Shinde, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 29th JULY, 2016

P.C. :

1 By this application, the applicant/accused in Crime No.119 of 2015, registered with Mundhwa Police Station, Dist. Pune for the offences punishable under sections 363, 366A, 344, 373, 376 r/w. 34 of the Indian Penal Code and under sections 4, 8, 12, and 16 of the Protection of Children From Sexual Offence Act, 2012 and section 23 of the Child Protection Act and section 5 of the Immoral Traffic (Prevention) Act, by this application under section 439 of the Criminal Procedure Code is praying for releasing him on bail on filing of the chargesheet.

2 Heard the learned counsel appearing for the Applicant/accused. He argued that main accused-Jyoti Adgale is already enlarged on bail by this court by order dated 17th April, 2016 in Cri. Bail Application No. 520 of 2016. The

learned counsel for the applicant argued that the role attributed to the present applicant/accused is only that being the customer. My attention is drawn to the statement of hostel-mate of the victim.

3 Learned APP opposed the application by contending that statement of owner of the lodges recorded by the Investigating Officer so also that of one Shivaji Hallale, goes to show that the minor girl was kidnapped from the custody of her lawful guardians for the purpose of forcing her to illicit intercourse with other persons and the present applicant is one of such persons.

4 Perused the chargesheet. The FIR came to be lodged on 10.08.2015 by the prosecutrix, who appears to be aged about 17 years. According to the prosecutrix, co-accused - Ravi Adgale had given a hand loan of Rs. 10,000/- to her father and for getting back that amount, he used to harass her family members. Ultimately, her father refunded an amount of Rs.8000/- but balance amount could not be refunded. She further averred that as co-accused-Ravi and Jyoti live in the vicinity of her parental house, close relations developed between the two families and, therefore, she became well acquainted with co-accused Ravi and Jyoti. The informant further averred that on 20.07.2015, co-accused Jyoti Adgale enticed her on the pretext of providing employment to her

and therefore, she left the company of her lawful guardians. Thereafter, she joined the company of co-accused-Ravi and Jyoti Adgale, who forced her in prostitution. These accused persons used to take her to Royal Lodge and Navashri Lodge for forcing her to have sexual relations with several customers including Sharad Gavare and the present applicant. The prosecutrix further averred that 7 to 8 days prior to 10.05.2015, co-accused-Ravi and Jyoti admitted her to Bhagirathi Hostel, where her parents alongwith the police approached and took the prosecutrix on 10.05.2015. Perusal of the statement of mother of the prosecutrix goes to show that the prosecutrix was in habit of leaving her parental house and her mother had quoted two such instances dated 24.04.2012 and 29.05.2015.

5 As the prosecutrix has stated about her admission to Bhagirathi Hostel by co-accused, statement of her roommate of that Hostel so also that of owner of the Hostel became relevant. One Samrat Gore, owner of the said Hostel, has stated that co-accused-Jyoti and Ravi Adgale, accompanied by the prosecutrix had been to his Hostel on 2nd August, 2015. He was informed that the prosecutrix is resident of Aurangabad and she has secured job at Magarpatta area at Hadappsar. Co-accused informed him that they are relatives of the prosecutrix. In this way, the prosecutrix was admitted at Bhagirathi Hostel and she started residing there from 03.08.2015. Her routine is

explained by the owner of the Hostel as well as her roommate - Manali Dalvi. Both these witnesses have stated that the prosecutrix used to leave the Hostel in the morning hours and she used to return at about 9 p.m., 10 p.m. or even upto 11 p.m.. FIR as well as statements of these two witnesses goes to show that the prosecutrix never attempted to extricate herself from the clutches of co-accused but the police and her parents came to the Hostel on 09.08.2015 and took her away. It appears that incorrect date is mentioned in the FIR in respect of this visit of the parents and police.

6 Statement of Balraj Shetty and Sudhakar Shetty goes to show that the co-accused Jyoti and Ravi used to bring one girl and one young person for staying in their lodges. FIR itself goes to show that the present applicant was not the only person who was having sexual relations with the prosecutrix.

7 The investigation is over. Considering the role attributed to the present applicant/accused in the crime in question, on completion of investigation, his pre-trial detention is not warranted and, therefore, the order :

ORDER

- i. The bail application is allowed.
- ii. The applicant/accused in Crime No. 119 of 2015, registered with Mundhwa Police Station, Dist.

Pune for the offences punishable under sections 363, 366A, 344, 373, 376 r/w. 34 of the Indian Penal Code and under sections 4, 8, 12, and 16 of the Protection of Children From Sexual Offence Act, 2012 and Section 23 of the Child Protection Act and Section 5 of the Immoral Traffic (Prevention) Act, be released on bail on executing PR Bond in the sum of Rs. 15,000/- and on furnishing solvent surety in the like amount.

- iii. As a condition of this order, the Applicant should co-operate the trial court in expeditious disposal of the trial pending against him.
- iv. In addition, the Applicant/accused is directed that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that applicant shall not tamper with the prosecution evidence in any manner.
- v. The bail application is disposed of accordingly.

(A. M. BADAR, J.)