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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.875 OF 2016

Ajay Patil @ Yadav @ Sardar Ananda Yadav ..Applicant.

V/s.

State of Maharashtra

..Respondent.

Mr.Aniket U. Nikam for the applicant.

Mr.Y.M.Nakhawa, APP for respondent-State.

CORAM : AM.BADAR, J.

DATED : 6TH JUNE, 2016

P.C. :-

1. Applicant / accused in Crime No.3010/2016 for offences punishable under section 3, 4 and 5 of the Immoral Traffic Prevention Act, 1956 and sections 3, 4, 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 by this application under section 438 of the Criminal Procedure Code is seeking pre-arrest bail.

2. Heard learned counsel appearing for the applicant / accused. He pointed out that application dated 3rd April, 2016 was moved by the applicant/accused before the Commissioner

of Police, Pune. The learned counsel for the applicant / accused vehemently argued that even prior to the registration of the crime in question, the applicant was apprehending his false implication in various offences as he has lodged complaints of corruption of higher police officers. The learned counsel further argued that the offence punishable under P.O.S.C.O. Act are already deleted from the case diary of the crime in question as the victim girls are reported to be of more than 18 years of age. As such, no offences under P.O.S.C.O. Act remains on the case diary and the applicant is entitled for pre-arrest bail because of false implication in the crime in question. He further pointed out that the applicant came to be discharged by a Competent Court in a similar offence registered against him earlier by police. My attention is drawn to the order of discharge passed by the concerned Court. The learned counsel for the applicant further argued that co-accused has submitted an application to the Court stating that he has not named the present applicant and he has no concern with the crime in question. The learned counsel for the applicant further argued that the alleged victims of the offence have not stated before the Investigating Officer that they were compelled by the present applicant to

indulge in prostitution. Therefore, according to the learned counsel for the applicant, as offence in question is registered only for maligning the reputation of the applicant because of his enmity with higher officers, he is entitled for pre-arrest bail.

3. As against this, the learned APP appearing for the State submitted that the applicant is a habitual offender and in all six offences under the Immoral Traffic Prevention Act were registered against him. The learned APP further pointed out that the applicant is an absconding accused in Crime No. 2056/2013 for offence punishable under section 4 and 5 of the Immoral Traffic Prevention Act registered with the Koregaon Park Police Station, Pune. He further argued that the complicity of the applicant / accused is well established and, therefore, the applicant is not entitled to pre-arrest bail.

4. Perused the papers of investigation / case diary, including the F.I.R. in question. Perusal of the F.I.R. goes to show that Police Inspector, Special Crime Branch had employed a decoy and sent him to Block No.B/2 of second floor of Gold Field building upon receipt of information that

prostitution is going on in the said flat. Upon receipt of signal from the decoy customer, raid was effected at the said flat. Four girls who were indulged in prostitution apart from two persons named Mahendra Chandrakant and Umesh Ram Thapa were found in the flat. Inquiry from the co-accused Mahendra revealed that he was working as Commission Agent for the present applicant. It was further transpired during the investigation that the earnings from running the brothel used to be distributed between the present applicant as well as co-accused Ashwin Jagtap, who is the owner of the flat.

5. During the course of investigation, the Investigating Officer has recorded statement of the victim girl. The statement of the victim girl shows that the present applicant used to call her for the purpose of prostitution at the flat in question. Considering this record and material collected during investigation, it cannot be said at this stage that the applicant is falsely implicated in the crime in question for maligning his reputation only because he has lodged complaints of corruption against higher police officers. Prima facie it is seen that the applicant had procured girls for prostitution and is living on their earnings by running a

brothel.

6. Be that as it may, the report submitted by the Investigating Officer shows that in the past in all six offences under Immoral Traffic Prevention Act came to be registered against the present applicant right from the year 2012. It is seen from the report of the Investigating Officer that the applicant is still absconding in so far as Crime No.2056/2013 is concerned. In the case of ¹**State of Madhya Pradesh V/s. Pradeep** the Hon'ble Supreme Court has held that if an accused is absconding or proclaimed offender in terms of section 82 of the Criminal Procedure Code, no indulgence can be shown in his favour by granting anticipatory bail to him. As such, though the learned counsel for the applicant has stated that out of the six offences registered against the present applicant, he is discharged in one of the offence, that alone cannot be considered for showing indulgence to the applicant in question.

7. Considering the heinous offence committed by the present applicant / accused so also the chequered history of similar offence allegedly committed by him in the past, this

¹ A.I.R. 2014 SC 626

Court is of the opinion that there is no guarantee that the applicant shall not commit similar offence in future if anticipatory bail is granted to him. His complicity in the crime in question is well established.

8. On merits, no case for grant of anticipatory bail is made out. The application is, therefore, rejected.

(A.M.BADAR, J.)