

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1094 OF 2016

Aunty @ Seema @ Fatima Basha Shaikh ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Victor Chettial i/b. Anjali Patil for the applicant.

Mr.Arfa Sait, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 29TH JUNE, 2016

P.C. :-

1. The applicant / accused in Crime No.22/2016 for the offences punishable under sections 376(1), 376(K), (N), 370, 344, 346, 417, 323, 506 read with 34 of the Indian Penal Code and sections 4, 5, 6, 8 of the Immoral Traffic (Prevention) Act, 1956 registered with Kalamboli Police Station, District Raigad by this application is praying for releasing her on bail on filing of the charge-sheet.

2. Heard the learned counsel for the applicant / accused. He argued that the allegations against the present

applicant are only to the effect that she has committed offences punishable under the Immoral Traffic (Prevention) Act, 1956. According to the learned counsel for the applicant, there are no averments or allegations against her so far as the rest of the offences alleged by the prosecution.

3. I have heard the learned APP appearing for the State. He argued that offence alleged against the present applicant is serious in nature and she has criminal antecedents. By placing reliance on the judgment of the Division Bench of this Court in the case of *Freedom Firm V/s. Commissioner of Police, Pune and Ors. [Criminal Public Interest Litigation No.4 of 2015]* decided on 30th October, 2015, the learned APP argued that no bail can be granted in such offences. The learned APP further argued that the accused who has criminal antecedents and has no permanent local address. Therefore, she cannot be released on bail in view of the guidelines given by the Division Bench of this Court.

4. Perused the charge-sheet. According to the prosecution case, the informant / prosecutrix was allured by

main accused Haroon to come to Panvel for joining work in the bakery for earning her livelihood. Accordingly, she along with her children came and stayed in the accommodation provided by accused No.2 Manik. According to the prosecution case, subsequently, accused No.2 Manik and accused No.4 Munjur sold the informant / prosecutrix to the present applicant who thereafter compelled her to indulge in prostitution by detaining her in the brothel situated at Grant Road, Mumbai. During investigation, the Investigating Officer has recorded statements of witnesses who are stated to be Managers of the rooms in the brothel. Those statements show that the present applicant has kept the prosecutrix in room No.17 of the said brothel for indulging in prostitution.

5. As held by the Apex Court in the case of ¹**Kalyan Chandrashekar Sarkar V/s. Rajesh Ranjan**, pre-trial detention of the accused is not supposed to be punitive or preventive, delay in commencement of trial is also a relevant factor for releasing the accused on bail. In the instant case, the trial will take its own time to conclude. It is stated by the prosecution that in the past, two offences are registered against the applicant but since those matters appear to be

¹ (2005) 2 SCC 42

sub-judice, guilt of the applicant / accused is not established in those crimes. No tangible material is shown which would *prima facie* pointed out that in the event of her release on bail, the applicant would not be available for trial or for receiving the sentence as may be passed against her. The guidelines given by the Division Bench of this Court are required to be kept in mind along with provisions of sections 437 and 439 of the Criminal Procedure Code. The case in hand does not appear to be covered by these guidelines. In this view of the matter, the application needs to be allowed. Hence the order :-

- (i) The applicant / accused in Crime No.22/2016 for the offences punishable under sections 376(1), 376(K), (N), 370, 344, 346, 417, 323, 506 read with 34 of the Indian Penal Code and sections 4, 5, 6, 8 of the Immoral Traffic (Prevention) Act, 1956 registered with Kalamboli Police Station, District Raigad be released on bail on her executing P.R. bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (ii) As a condition of this order, the applicant / accused shall

attend the Court on each and every date of hearing;

- (iii) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against her so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that she shall not tamper with the evidence;
- (iv) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (v) The applicant / accused shall not commit an offence similar to the offence of which she is accused;
- (vi) The application is disposed of accordingly.

(A.M.BADAR, J.)