

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

BAIL APPLICATION NO.1142 OF 2016

Lakhan Dashrath Paswan ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mrs.Anjali Patil with Arun Rajput, Advocate for the Applicant.

Mr.H.J.Dedhia, APP for the Respondent/State.

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CORAM : P. N. DESHMUKH J.

DATED : 15th JUNE 2016.

P.C.

1. Accused Lakhan Dashrath Paswan involved in Crime No.66 of 2016 registered with Dr.D.B.Marg Police Station for the offences punishable under Sections 370(3) read with Section 34 of the Indian Penal Code and Sections 3,4 and 5 of the Prevention of Immoral Traffic Act (In short, “the PITA Act”), has prayed for bail.

2. It appears to be the case of prosecution that on the basis of information received by the police on 04/03/2015 raid was carried out in a premises in the presence of panch witnesses and a bogus customer, wherein applicant came to be found and about 17 victim girls came to be rescued, who were of age group between 25 to 40. During the course of investigation, it was

revealed that accused along with co-accused was managing the said brothel and out of total earning of victim girls, they use to obtain their share to the extent of 60% share and remaining was paid to the victim girls.

3. By inviting my attention to the documents, the learned counsel for the applicant has submitted that Section 370(2) of the IPC and Section 3 and 5 of the PITA Act cannot be said to be attracted, but only Section 4 of the PITA Act can only be attracted in the present case, which is bailable.

4. I have perused the documents including that of statements of victim girls, who are rescued from the brothel, who had in clear terms stated that they were voluntarily doing prostitution for their livelihood.

5. The learned Additional Public Prosecutor has opposed the application on the ground that two offences are already registered against the present applicant, and in one such case he is convicted till rising of the Court, and thus submitted that there is every possibility of applicant indulging in same act, if he is released on bail.

6. In the background of above facts and on perusal of relevant provisions of the PITA Act, Section 4, which *prima facie*

appears to be attracted in the present case, reveals that the punishment prescribed therein is of imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both, when a person above 18 years of age is knowingly living wholly or partially on the earning of the prostitution. From the allegations levelled against the applicant, as aforesaid, since it is *prima facie* noted that his involvement is only with reference to his taking share up to 60% out of earning of females involved in prostitution, and having considering the penal provisions, as aforesaid, application is liable to be allowed. As per above, the application is allowed in following terms.

7. The applicant shall be released on bail on his executing personal bond in the sum of Rs.15,000/- with one surety in like amount.

8. The applicant while on bail shall not indulge in tampering with the witnesses and shall not indulge in similar activity and, if he is found indulged in similar crime, prosecution shall move an application for cancellation of bail.

(P. N. DESHMUKH J.)