

nsc.

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

CRIMINAL BAIL APPLICATION NO.1195 OF 2015

Vijay Triloki Paswan ... Applicant/Accused
V/s.
The State of Maharashtra ... Respondent

Mr.P.R.Dave, for the Applicant.

Ms.A.A.Mane, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATED : 8th JANUARY, 2016.

P.C.

1. Heard learned counsel for the Applicant and the learned APP.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 59 of 2014, registered with the D.B.Marg Police Station, Mumbai, for the alleged offences punishable under Sections 370, 344, 376 r/w 34 of the Indian Penal Code and Sections 3, 4, 5 and 6 of PITA Act.
3. According to the prosecution on 27th February, 2014 one Sharda who was working with the Police Department, lodged a report with

the D.B.Marg Police Station. On 26th February, 2014 one Ms.Akanksha had approached the police station and disclosed that two girls were inquiring about the nearest police station, pursuant to which, she had brought the girls to the police station. As the girls were not conversant with the Hindi language and were speaking in Bengali language, a translator was summoned to the police station. According to the victim girls, one Masood and Sapan had brought them from Bangladesh to Calcutta for a person by the name Faizal and that Faizal had brought them to Mumbai and introduced them to the present applicant. According to the victim girls, Faizal had sold them to the present applicant for Rs.3 lacs and that the girls were thereafter forced into prostitution. The victim girls also informed the police, that the present applicant was running the brothel along with two others. According to the victim girls, whenever they refused to oblige, they were assaulted. Accordingly, an FIR was lodged as against Faizal, present applicant, Masood and Sapan.

4. This is the second bail application preferred by the applicant. The first bail application of the applicant was rejected on merits by this Court (Coram:Revati Mohite Dere,J.) vide order dated 19th March, 2015.

While rejecting the said application, direction was given to the trial Court to make an endeavour to decide the case as expeditiously as possible. Liberty was also granted to the applicant to file a fresh application for bail, if the trial does not conclude within a reasonable time, for no fault of the applicant. The said bail application was disposed of with liberty as aforesaid.

5. Learned Counsel for the Applicant states that till date, charge has not been framed in the present case, despite the fact that the trial has been expedited. He submits that even otherwise, the two victim girls who are major, aged 30 and 20 respectively, are from Bangladesh and have been repatriated to Bangladesh and hence the possibility of the trial commencing in the near future appears to be bleak. He submitted that the co-accused in the said case, Surendra Ramdas Pasvan has been granted Anticipatory Bail by this Court (Coram:Smt.Sadhana S. Jadhav, J.) vide order dated 30th September, 2014.

6. Learned APP opposed the bail application. She submitted that although she does not dispute the fact that the two victim girls have been

repatriated to Bangladesh, however, she submits that the statements of the said girls can be recorded through video conferencing or that summons can be served through the Senior Officer, through Interpol - CBI, New Delhi. Although the same can be done, till date even charge has not been framed. Learned APP is unable to state whether there are any antecedents as against the applicant. The matter has been adjourned on two or more occasions, however, till date, neither the APP nor the officer is in a position to state whether there are any antecedents as against the applicant. She states that the applicant is from Jharkhand and that it would be difficult to secure the presence of the applicant at the trial. The said apprehension can be taken care of by imposing stringent conditions to secure the applicant's presence during trial.

7. The statements made by the learned counsel for the Applicant that the applicant has no antecedents and that the Applicant is ready to abide by any of the conditions which may be imposed and shall attend the concerned police station as and when directed by this Court, are accepted.

8. Perused the papers, including the Roznama which is tendered

by the learned counsel for the applicant. The same is taken on record and marked 'X' for identification. A perusal of the Roznama shows that from 20th May, 2015 to 29th December, 2015 there has been no progress in the said case whatsoever. It appears that on a number of dates, the applicant has not been produced from the jail, by the authorities. It also appears that the two victim girls who were major and married with children, have been repatriated to Bangladesh and hence the possibility of the prosecution securing their presence for trial at the earliest, seems difficult. Therefore, there appears to be some merit in the submission of the learned counsel that the possibility of the trial not commencing in the immediate near future appears to be bleak. After the rejection of the applicant's application, co-accused Surendra Pasvan has been granted pre-arrest bail. Considering the aforesaid and also considering the fact that there are no antecedents as against the applicant, a statement made by the learned counsel for the applicant, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing

PR Bond in the sum of Rs. 50,000/- with two or more local sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any persons concerned with the case;

(iv) The applicant shall not leave Mumbai City, without the permission of the Trial Court;

(v) The applicant shall attend the Sessions Court on every date of the hearing and to cooperate with the conduct of the trial;

(vi) An undertaking to the aforesaid clauses (ii)

to (v) shall be filed by the Applicant, in the Trial Court, within two weeks of his release.

9. Both, the learned counsel for the applicant and the learned APP request that the trial be expedited. Accordingly, the trial of the applicant is expedited. The Trial Court shall make an endeavour to conclude the trial, as expeditiously as possible.

10. The Application is allowed in the aforesaid terms and is accordingly disposed of.

11. It is made clear, that the observations made herein are prima facie and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

12. Parties to act upon the authenticated copy of this order.

(REVATI MOHITE DERE, J.)