

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1386 OF 2016

Shri Nilesh @ Nitin Ramesh Patole	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Umesh Mankapure, Advocate for the applicant.
Mr. S.S.Pednekar, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 22nd September, 2016.

P.C.

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 20.4.2016 in Crime No.137 of 2016 registered at Vita Police Station for the offences punishable under Sections 3, 4, 5 and 6 of Immoral Traffic (Prevention) Act, 1956. The investigation is completed and charge sheet is filed.

2. It is the case of the prosecution that the present accused was working as a Manager of “Dreamland Hotel and Lodge” at Vita. The hotel was being run by one Riyaz. According to the prosecution, the present applicant is a good friend of one Pravin Mirache. On 15.4.2016, the police

of Vita Police Station had received a secret information that one Pravin Mirche is likely to bring a lady to the said Hotel for the purpose of prostitution. The police therefore decided to raid the said premises by taking a decoy customer. That Ganesh Chinake was asked to act as a decoy witness. They raided the Room No.110 in which the victim was found . The applicant was arrested on the very next day. The papers of investigation would clearly indicate that one of the staff members namely Sunil Patil had informed Mr. Naik that the Manager is a good friend of Pravin Mirache and that he told him to use the room for the purpose of prostitution. The statement of the witness would clearly indicate that the applicant happens to be a close associate of Pravin Mirache.

3. The learned counsel for the applicant submits that the woman who was brought by Pravin Mirache was more than 26 years old on the date of incident. It is further submitted that the investigation is completed and charge-sheet is filed and hence further incarceration would be unwarranted and unjustified. The learned counsel for the applicant submits that the punishment under Section 3 of the said Act is punishable for rigorous imprisonment for a term not less than one year and not more than 3 years and fine Rs.2,000/-. The punishment under Section 3(2)(a) of the said Act

is punishable on first conviction with imprisonment for a term which may extend to two years and fine of Rs.2,000/-. Section 4(1) is punishable with imprisonment for a term which may extend to two years or with fine. It is submitted by the learned counsel that the compilation of the charge sheet would make it clear that the applicant may not be liable for the offence punishable under Sections 5 and 6 of the said Act as the applicant neither procured, engaged or taken the victim for the purpose of prostitution nor he had detained her for the purpose of prostitution. The victim had visited the hotel voluntarily along with Pravin Mirache knowing full well the purpose for which she is visiting the premises.

4. Taking into consideration the fact that the offence is punishable for not more than 3 years, the applicant deserves to be enlarged on bail.

5. It is made clear that the observations made hereinabove are prima facie in nature and shall not be considered at the time of trial.

6. The co-accused Pravin Mirache shall not claim parity along with the present accused.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount.
- (iii) The applicant shall not visit Vita till the conclusion of the trial.
- (iv) The applicant shall report to Karad Rural Police Station on first Sunday of each month till the date of framing of charge.

Application is allowed and disposed of in the above terms.

(SMT.SADHANA S.JADHAV, J.)