

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

ANTICIPATORY BAIL APPLICATION NO.1230 OF 2016

Moti Manbahadoor Tamang ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Rajesh A. More, Advocate for the Applicant.

Mrs. Veera Shinde, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 29th JULY, 2016

P.C. :

1 The applicant/accused in Crime No. 31 of 2014, registered with Faraskhana Police Station, Pune for the offences punishable under sections 328, 344, 363, 366, 372, 373 r/w. 34 of the Indian Penal Code and under sections 3,4,5,6,7 of the Prevention of Immoral Traffic Act, by this application under section 438 of the Criminal Procedure Code, is praying for pre-arrest bail.

2 Heard the learned counsel appearing for the Applicant/accused. He argued that exactly in identical matter, this court on 28th January, 2016 granted anticipatory bail in ABA No. 114 of 2016. Learned counsel for the applicant submits that the applicant is merely owner of the property in

question and the chargesheet does not reflect that she used the premises for running brothel or that she earned by prostitution. Learned counsel further argued that the statement of victim girl- Kamala in no way points a finger of accusation against the present applicant. Therefore, the present applicant is not in any manner concerned with the charge leveled against co-accused for the offence under Indian Penal Code.

3 I have also heard the learned APP appearing for the State. Learned APP opposed the application by contending that the offence alleged is serious.

4 In ABA No. 114 of 2016 decided on 28th January, 2016, the allegations against the applicant therein were to the effect that he was owner of the premises where the brothel was found to be running. The applicant therein was charged for committing the offence under sections 3,4,5,6 and 7 of the Immoral Traffic (Prevention) Act. This court has released the applicant therein on pre-arrest bail, by observing that such offences are punishable with maximum sentence of two years.

5 In the case in hand, it is averred by the prosecution that from the persons found on the spot it is learnt that the present applicant is owner of the premises where brothel was found to be running. Perusal of statement of Kamala does not

in any manner pointed out the role of the present applicant in abducting her and/or in keeping her in the brothel for running prostitution. Learned APP is not disputing the fact that the averment against the present applicant is only to the effect that she is owner of the premises.

6 According to the learned counsel for the applicant, the applicant is not having her residence at Budhawar Peth area of Pune and she is residing at Ambegaon Khurd, Katraj. On completion of the investigation against the co-accused, chargesheet is already filed. It is not expressed by the prosecution that there are chances of absconding the applicant or tampering of the evidence at her instance. Learned counsel for the applicant/accused states that even the police have sealed the premises on 28.01.2016 where the brothel is being allegedly run. In this view of the matter, custodial interrogation of the applicant is not warranted. Therefore, the order :

ORDER

- i. The anticipatory bail application is allowed.
- ii. In the event of arrest, the applicant/accused in in Crime No. 31 of 2014, registered with Faraskhana Police Station, Pune for the offences punishable under sections 328, 344, 363, 366, 372, 373 r/w. 34 of the Indian Penal Code and under sections

3,4,5, 6, 7 of Prevention of Immoral Traffic Act, be released on bail on executing PR Bond in the sum of Rs. 25,000/- and on furnishing solvent surety in the like amount.

- iii. As a condition of this order, the Applicant should should attend the concerned police station on 14.08.2016, 21.08.2016 and 28.08.2016 in between 11 a.m. to 1 p.m. and she should co-operate the Investigating Officer.
- iv. In addition, the Applicant/accused is directed that she 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 such person from disclosing such facts either to the Court or to any police officer and that applicant shall not tamper with the prosecution evidence in any manner.
- v. The applicant/ accused should not repeat the commission of similar offence in future.
- vi. The bail application is disposed of accordingly.

(A. M. BADAR, J.)