

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2035 OF 2016

Mr. Nitin Sushilkumar Yamulkar ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Mr. Rajaram V. Bansode, Advocate for the applicant.
Ms. Veera Shinde, APP, for the State.
Mr. Ishwar V. Kokare, PSI, Sadar Bazar Police Stn. Solapur present.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 5th October, 2016.

P.C.

1. Heard. This is an application under section 439 of Cr.P.C. The applicant herein is arrested on 1.9.2016 in Crime No.418 of 2016 registered at Sadar Bazar Police Station, Solapur, for the offences punishable under Section 370(2)(3) of the IPC and under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

2. It is the case of the prosecution that at the behest of an NGO i.e. Sarvajanic Ekata Vikas Agman, a raid was conducted in the Hotel Maharaja on 31.8.2016. At that time, 11 women were found in the said hotel along with certain customers. It is the case of the prosecution that the applicant happens to be a customer who was present with the sex workers

in Hotel Maharaja on that day. The police had taken him into custody, although he happened to be a customer.

3. The learned APP, upon instructions from the Investigating Officer, who is present in the Court, submits that on the day of the incident, it was not within the knowledge of the investigating officer that the applicant is a customer. This explanation cannot be accepted. The Immoral Traffic (Prevention) Act, 1956 does not contemplate any punishment for the customer. All the women who were found in the hotel were major as defined in Section 2 of the said Act. It cannot be said that the applicant was either living on the earnings of prostitution or he had procured, induced or taken any person for the sake of prostitution nor he was conducting the business of the said hotel nor allowing the premises to be used as a brothel. The persons who were managing the business of the hotel have been granted pre-arrest bail. Further incarceration of the applicant would be unwarranted and unjustified. In view of this the applicant deserves to be enlarged on bail.

4. The observations are prima facie in nature and shall not be considered for the purpose of deciding the application for quashing, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

The application is allowed in the above terms and disposed of.

(SMT.SADHANA S.JADHAV, J.)