

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

ANTICIPATORY BAIL APPLICATION NO.1772 OF 2015

Nakul Kumar Kamleshwar Yadav @

Mukul Yadav

...Applicant

v/s.

The State of Maharashtra

...Respondent

...

Mr. P. R. Dave for the applicant.

Mrs. Rutuja Ambekar, APP for the State.

Mr. D.R. Ganore, Investigating Officer, Khar police station
(present).

...

CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 15th APRIL, 2016.

P.C. :

1. This application is moved for pre-arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 370(3) of the Indian Penal Code read with 3, 4, 5 & 6 of PITA Act read with 4, 8 & 12 of POCSO Act. Pursuant to information given by Ravindra Narayan Surve, police officer, offence came to be registered in C.R.No.301 of 2015 at Khar Police Station, Mumbai.

2. It is the case of the prosecution that on information, the police raided the premises at one New Kamal building. On 6/7/2015 in the raid, they found that 6 women were carrying on prostitution in the said premises. They found one person by name Shatrugan, who is co-accused at the spot, who was running that

brothel. He was apprehended at the spot. During the investigation, it was revealed that along with him one Umesh Yadav, Sitaram Yadav and the applicant/accused Mukul Yadav were running the brothel in partnership. Hence, the offence was registered.

3. Mr.Dave, learned counsel for the applicant/accused, has submitted that age of these 6 girls is shown above 18 years in the medical certificate which was produced before the learned Magistrate at the time of remand. The certificate was issued from Nair Hospital on 10/7/2015. He further submitted that 10 days thereafter, another medical certificate was issued by JJ Hospital as per direction of the learned Magistrate and it shows that some of the girls are 16-17 years old. He submitted that none of the girls has stated that they were forced by the applicant/accused to do prostitution.

4. Mrs.Rutuja Ambekar, learned Public Prosecutor opposing this application, submits that the applicant/accused is one of the partners of the co-accused, who was arrested at the spot and subsequently released on bail. There is sufficient evidence against the applicant/accused. Second medical certificate dated 23/7/2015 discloses that three girls are minors. The offences levelled against the applicant/accused are non-bailable. Perused the FIR and the medical certificate produced by learned Public Prosecutor and so also read the statements of the victim girls. There is discrepancy in the two medical certificates, one issued by Nair Hospital and the other by JJ Hospital. The second certificate which is issued by JJ

Hospital on 23/7/2015 discloses that the age of the three out of 6 girls is falling between 16-17 years old. However, after going through the statements of 6 victims, it appears that one of them is the mother of a two-year old boy. Their statement discloses that they have entered into this work out of financial need. However, neither of them has stated that they were forced by the applicant/accused to do prostitution. In such circumstances, it was necessary for the police to produce birth certificates of these girls. The victims are available with the police since July 2015, but till today no birth certificate is collected by the police. On query, it is informed that the premises where the brothel was run is now sealed by the police. In these circumstances, I am inclined to grant pre-arrest bail on the following terms and conditions:

- i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- with one or two solvent sureties in the like amount;
- ii) The applicant/accused shall cooperate with the Investigating Officer;
- iii) The applicant/accused shall attend the concerned police station on 20/4/2016, 21/4/2016 and on 27/4/2016 between 11 a.m. to 12 p.m;
- iv) The applicant/accused shall not tamper with the evidence or pressurize the victims;

- v) The applicant/accused shall not indulge into any offence of human trafficking;
- vi) The applicant/accused shall not abscond or leave India without the prior permission of this Court and furnish his permanent address to the Investigating Officer along with documentary proof of his address;
- vii) In the event of breach of any of the above conditions, the prosecution will be at liberty to move this Court for cancellation of the bail.

(MRS. MRIDULA BHATKAR, J.)