

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2518 OF 2016

Ramchandra Bandu Gujale	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Viresh V. Purwant, Advocate for the applicant.
Mr. R.M.Pethe, APP, for the State.

WITH
CRIMINAL BAIL APPLICATION NO. 2520 OF 2016

Dattatray Sarjerao Dhawale	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Ritesh M. Thobde, Advocate for the applicant.
Mr. S.S.Hulke, APP, for the State.

WITH
CRIMINAL BAIL APPLICATION NO. 2524 OF 2016

Sakhahari Dashrath Kanhere	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Jaydeep D. Mane,, Advocate for the applicant.
Mr. Prashant Jadhav, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 16th December, 2016.

P.C.

These are the applications under Section 439 of Cr.P.C. The applicants herein are arrested on 6.11.2016 in Crime No.485 of 2016 registered at Tembhurni Police Station, Solapur for the offences punishable under Sections 3, 4, 5 and 6 of the Immoral Traffic (Prevention) Act, 1956 (for short, PITA).

2. It is the case of prosecution that on 6.11.2016, Police Naik Milind Kamble lodged a report at the police station on 5.11.2016. It was a secret information that the owner of Vishwajeet Lodge i.e. Dattatraya Dhawle was indulging into trafficking as well as he was running a brothel under the garb of a lodge. On the basis of the said information, the police machinery had decided to raid the said premises. They had taken all steps in accordance with law. They had taken a decoy customer along with them. When they reached the spot, they saw that all six rooms were occupied by women and customers. That Sakahari Kanhere is the owner of Trimurti Lodge. There are 9 rooms in the said lodge for the purpose of prostitution. It is the case of the prosecution that Rajak Pathan was the person who used to work as a kingpin/agent and was providing girls for the purpose of prostitution. It appears that on the same day, at about the same time, under

the directions of SDPO, the raid was conducted in both the lodges and it was found that the said lodges were being used as brothels. The investigating agency has also seized the diaries from both the lodges which would show that the owner and the manager were living on earnings of prostitution. Hence, they are being prosecuted for the offence punishable under the provisions of PITA.

3. The applicants are in custody since 6.11.2016.

4. The Investigating Officer has recorded the statements of the women who were found in both the hotels. All the women had specifically stated that due to economic stringency, they had entered into the profession of prostitution. They were in constant contact with Razak Pathan. That they used to oblige Rajak whenever he called them for the purpose of prostitution. That they were given 75% of the payment on clock hour basis. The women have specifically stated that they were introduced to the present applicants only through Rajak Pathan and that they were not directly in contact with any of the present applicants. This is the first offence under the provisions of PITA registered against the applicants. Offences punishable under Sections 3, 4 and 5 are punishable with imprisonment for

a period of 3 years in the said offences. Section 6 is punishable with imprisonment not less than 7 years. Upon reading the statements of the women, it cannot be said that the women were detained in the hotel by the present applicants. It is in view of this, that the applicants deserve to be enlarged on bail.

5. The learned Sessions Judge has observed that the premises of both the hotels have not been sealed. The learned APP, upon instructions from the Investigating Officer, submits that on 24.11.2016, an application was made to the SDPO, Kurduwadi Sub-Division, Kurduwadi to seal the premises under Section 18 of the said Act. For the reasons best known to SDPO, no action has been taken under Section 18 of the said Act till today. The SDPO shall forthwith take action under Section 18 of the said Act and the said action be taken in one week from today.

6. The above observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The applications are allowed.
- (ii) The applicants be enlarged on bail on each furnishing P.R.

Bond in the sum of Rs.1,00,000/- (Rupees one lakh) and one or more solvent sureties in the like amount.

(iii) The applicants shall not enter in the jurisdiction of Tembhurni and Kurduwadi till filing of the charge sheet.

The applications stand disposed of.

(SMT. SADHANA S.JADHAV, J.)