

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8184 of 2016

Sheela Pahuja W/o Sanju Pahuja Aged About 25 Years R/o Sharda Vihar, Atal Awas, Korba, House No. 24, Out Post Manikpur, Police Station Kotwali, Korba, District Korba, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Out Post Rampur, Police Station Kotwali, Korba, District Korba, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Anil Gulati, Advocate
For Respondent/State	:	Shri B. Gop Kumar, Dy. A.G..

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/01/2017

Heard.

1. The applicant has been arrested in connection with Crime No. 211 of 2016 registered in Police Outpost- Rampur, Police Station- Kotwali, Korba, District- Korba (C.G.) for the alleged commission of offence under Sections 363, 368, 376, 376-D, 370-A, 372, 373, 201/34 IPC, Section 4 of the Protection of Children from Sexual Offences Act and Section 75 of the Juvenile Justice Act.
2. Case of the prosecution, in brief, is that the prosecutrix, a minor girl aged about 16-17 years was subjected to prostitution and trafficking by her own relations and she was subjected to rape by different persons by taking money from them. The allegation against the present applicant is that in the process of exploitation of the minor girl by her relatives, the present applicant had paid some money to the aunt of the prosecutrix and she was taken with a dancer group to Banaras for dancing and obscene acts along with other girls.
3. Learned counsel for the applicant submits that in the material collected by the

prosecution in the charge sheet filed, the role alleged against the applicant is that the applicant had paid some money to the aunt of the prosecutrix and she had taken the applicant along with other girls for a group dance to Banaras and there, the prosecutrix along with other girls, had performed obscene dances before number of persons. It is submitted that these materials taken together do not constitute commission of any offence under the POCSO Act because in so far as the present applicant is concerned, she had no role in so far as sexual exploitation of the prosecutrix is concerned. Therefore, in this manner, the case of the present applicant is different from those co-accused who are alleged to have sexually exploited the prosecutrix. It is also submitted that there is no material to show that the applicant was in any manner connected with the other co-accused to sexually exploit the prosecutrix and the only role of the preset applicant is that once upon a time, she paid some money to aunt of the prosecutrix to take her for performance in a group of dancer to another station but there is no allegation of any sexual exploitation of the prosecutrix. Learned counsel for the applicant further submits that as the investigation is complete, charge sheet has been filed and the applicant is not likely to abscond or in a position to tamper with prosecution witnesses, she may be granted bail, looking to her pretrial detention for last about 5 months.

4. On the other hand, learned counsel for the State has opposed the bail application. He submits that in the present case, the prosecution has come out with a case that the minor prosecutrix was forced into prostitution by her own relations who used to take money from different persons and subjected the prosecutrix to rape by number of persons. The present applicant is one of the co-accused who had also paid some money to the aunt of the prosecutrix for taking the prosecutrix in a dance programme along with many other girls and the way the girl were presented for obscene dancing, a case against the present applicant is also made out as she has also exploited the minor prosecutrix in her own manner even though there is no direct allegation of sexual assault.
5. It appears that in the present case, the role of the applicant seems to be limited to taking the prosecutrix in a group of dancers for performance of a dance programme at Banaras. The allegation is that the group of dancer used to present obscene dance in the presence of other persons and thereafter it has been said in the statement under Section 164 Cr.P.C. of the prosecutrix that she

was brought back. Therefore, prima facie what was stated by the prosecutrix in her statement under Section 164 Cr.P.C. in so far as the present applicant is concerned, her role appears to be limited to taking the prosecutrix for performing certain dances in group along with a group of dancers at Banaras. Therefore, considering this limited nature of allegation against the present applicant and prima facie there being no material to show that this applicant was in any manner associated with those who had sexually exploited the prosecutrix and further taking into consideration that the investigation is complete and charge sheet has been filed and the applicant is in jail since 31st July, 2016, I am inclined to allow the application.

6. The application is accordingly allowed. It is directed that the applicant shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:

- (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) The applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge