

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.3545 of 2017**

- Ku. G. Sai Janvi D/o Shri G. B. S. N. Murty Aged About 21 Years R/o D D Nagar, District Raipur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station Telibandha, District Raipur, Chhattisgarh.

---- Respondent**AND****MCRC No. 3819 of 2017**

1. Kumari Pooja Soni D/o Shri Arjun Das Soni, Aged About 30 Years R/o Samta Colony, Police Station Azad Chowk, Raipur, Chhattisgarh
2. Smt. Shikha Mandal Wd/o Late Nabh Kumar Mandal, R/o Goverdhan Nagar, Khamtarai, Police Station Khamtarai, District Raipur, Chhattisgarh
3. Smt. Deepalichanda W/o Shri Devashish Chanda, Aged About 36 Years R/o Sector-01, Shankar Nagar, Raipur, Chhattisgarh
4. Smt. Rupali Mistri W/o Shri Sanjeev Mistri, Aged About 30 Years R/o Goverdhan Nagar, Khamtarai, Behind Ganga Talab, Police Station Khamtarai, Raipur, Tahsil & District Raipur, Chhattisgarh, At Present R/o Rupal Family Salon, R-07, Sector-02, Avanti Vihar, Raipur, Tahsil & District Raipur, Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Telibandha, District Raipur, Chhattisgarh

--- Respondent

For Applicant	: Shri Maneesh Sharma and Vimlesh Bajpai, Advocates
For Respondent/State	: Shri Sumit Jhawar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board**

20.6.2017

As aforementioned cases arise out of same incident and same crime number, both the cases are being disposed of by a common order.

2. Heard the matter finally.

3. Therese are the applications filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with Crime No.105/2017 registered in Police Station Telibandha, Distt. Raipur for the offence punishable under Sections 3, 4 & 5 of the Immoral Traffic (Prevention) Act, 1956 (for short the Act of 1956).

4. Learned counsel for respective applicants submit that the applicants have been arrested on 15.3.2017, after investigation, concerned police has filed charge sheet against the applicants, which is pending as Criminal Case No.3522/17 before Chief Judicial Magistrate, Raipur. As per the allegation, all the applicants were allegedly involved in keeping a brothel, living on the earning of prostitution and procuring for prostitution. The applicants were arrested from Rupal Family Salon. As per the allegation, the police had sent pointer to the said place, who gave Rs.3,000/- to applicant Smt. Rupali Mistri, thereafter he returned, then the police made a raid on the Rupal Family Salon and during raid police has seized the duly signed currency notes of Rs.1000/- from applicant Rupali Mistry, Rs.500/- each from other applicants namely Kumari Pooja, Smt. Shikha Mandal, Smt. Deepalichanda and Ku. G. Sai Janvi. There is no evidence collected by the prosecution whether the

aforementioned applicants were customers or serving in the said salon, simply by seizure of aforementioned currency notes, it cannot be said that prima facie they were involved in offence as alleged. Besides this, there is no other evidence collected against the applicants by the prosecution. Statement of the seizure witnesses also do not give vital evidence against the applicants. The applicants are in jail for three months and five days, they are all women, they will not commit any offence in future. Hence, they may be granted bail.

5. Per contra, learned counsel for the State opposes the bail application and would submit that seizure of the signed notes from all the applicants, which were given by the pointer to Smt. Rupali Mistri, as aforementioned goes to show that all the applicants were involved in the offence under Sections 3, 4 & 5 of the Act, 1956. They were arrested from the salon and and were failed to offer any explanation for their presence in the salon at the time of the raid. He further submits that as per the copy of the agreement seized from applicant Rooplai Mistri, the said premises was taken on rent from one Prahlad Agrawal by the husband of applicant Roopali Mistri and more over from one of the bed room of the said the premises, two empty bottles of foreign liquor, seven pieces of used condoms and one packet of unused condom were also seized which shows the manner and object for which the salon was being run, hence their applications for bail may be dismissed.

6. Perused the entire material.

7. Case of applicant Smt. Rupali Mistri is distinguishable from other applicants. Her husband had taken the premises on rent for running the salon. There was no explanation as to how from the bed room of the said salon the aforementioned empty liquor bottles and condoms were seized. In absence of any explanation, this Court is of the considered view that looking to the entire act of applicant Smt. Rupali Mistri, prima facie, for the purpose of appreciating the bail application, it appears that she was running a brothel, living on the earning of prostitution and procuring for the sake of prostitution. On the basis of the evidence collected against applicant Roopali Mistri, I am not inclined to grant bail to her. Consequently, bail as prayed by her in M.Cr.C. No. 3819/2017 is hereby dismissed.

8. So far as other applicants in the said M.Cr.C. No.3819/17, i.e. Kumari Pooja Soni, Smt. Shikha Mandal, Smt. Deepalichanda and in M.Cr.C. No.3545 of 2017 Ku. G. Sai Janvi are concerned, they are in custody since three months and five days, the police has not noticed any criminal antecedent against them, only Rs.500/- has been seized from each of them as aforementioned which was duly signed and given by the pointer to Rupali Mistri.

9. On due consideration, looking to the facts that charge sheet is not filed, the applicants are in custody for three months and five days, the trial may take sometime, I am inclined to grant bail to the applicants Kumari Pooja Soni, Smt. Shikha Mandal, Smt. Deepalichanda in M.Cr.C. No.3819/2017 and Ku. Sai Janvi. In M.Cr.C. No.3454/2017. Consequently, applications filed on behalf of them except applicant Smt. Rupali Mistri are hereby allowed.

10. It is directed that applicants Kumari Pooja Soni, Smt. Shikha Mandal, Smt. Deepalichanda and Ku. Sai Janvi shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- each with two solvent sureties of Rs.25,000/- each to the satisfaction of Chief Judicial Magistrate, Raipur for their appearance before the said Court as and when directed.

11. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

12. It is further directed that till the conclusion of the trial, present applicants shall mark their appearance before the Station House Officer/IO, Police Station Telibandha, Distt. Raipur on **First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicants without any cogent and proper reason do not appear before the Police of Telibandha, Distt. Raipur, as directed, the concerned police may inform the trial Court for the act and if their non appearance found to be without any proper and cogent reason, the instant order granting bail to

the applicants shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

13. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Court and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE