

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO. 179 OF 2017

Smt. Rihana Sahed Khan,
w/o Sahed Khan,
26 years of age,
permanent resident of Ward No. 16,
Sindagi Road, Yogapur colony,
Near Gafur Badsha Darga,
Vijayapura-Bijapur Railway Station,
Karnataka State 586 104
and present resident of near
Famous Park Colony, Khorlim,
Old-Goa, Goa presently
lodged in Judicial Custody
Central Jail Colvale.

..... Applicant

V e r s u s

1. STATE
Through Public Prosecutor
Hon'ble High Court of Bombay
At Panaji, Goa.
2. Police Inspector,
Women Police Sgtation,
Goa Police,
Panaji

..... Respondents

Mr. Arun Bras De Sa, Advocate for the Applicant.

Mr. S. R. Rivankar, Public Prosecutor for the Respondents.

Coram :- NUTAN D. SARDESSAI, J

Date : 31st August, 2017

ORDER

Heard Shri Arun De Sa, learned Advocate appearing for the

Applicant and Shri S. R. Rivankar, learned Public Prosecutor appearing on behalf of the Respondent-State.

2. It was the contention of Shri De Sa, learned Advocate appearing for the Applicant that the complaint on the face of it did not disclose the ingredients of the offence punishable under Section 370 of the Indian Penal Code. The Applicant came to be arrested on 03.06.2017 and was in custody since then for the last more than two months. The bail application moved by her before the Sessions Court, Panaji, was dismissed by an Order dated 27.06.2017 by the learned Addl. Sessions Judge, North Goa, Panaji, primarily on the ground that she was not a permanent resident of the State of Goa. The Applicant would co-operate with the course of investigation and/or otherwise her detention in custody was no longer required and therefore she was to be enlarged on bail.

3. Shri S. R. Rivankar, learned Public Prosecutor on behalf of the State opposed the application on the premise that the Applicant alongwith one person named Raju had harboured, transported and induced the victim from Mumbai to Goa and subjected her to sexual exploitation for the purpose of unlawful gains by them from the members of public by depicting her as prostitute against her will. The offence was accordingly registered vide the Cr. No.06/17 under Section

370 of the Indian Penal Code and investigation was in progress. The medical examination of the victim on reference to the GMC Hospital revealed that there was evidence of genital penetration like that in sexual intercourse and there was presence of injury on her body. The Applicant was not disclosing any information regarding the mobile phones recorded during the course of the house search and the attachment during the panchanama. Her husband was yet to be traced and his role was required to be established in the crime having interstate ramification. The Applicant was, therefore, not entitled to the benefit of bail on such and similar grounds urged in the reply. Besides, the identity of the three children who were purportedly staying in the flat at Corlim, alongwith her husband was yet to be confirmed and whether they were actually her children or children brought for some illegal activities. The application as such was liable for dismissal.

4. i have considered the submissions of Shri De Sa, learned Advocate appearing for the Applicant and besides perused the birth certificates produced on record by him, two of which reveal that the Applicant is the mother of the two minor children and that of the third not being established for want of her name in the column of the mother unlike that of her other two children: That apart, the investigation in the matter is substantially over and merely because the husband of the Applicant is to be traced, is no ground to continue her detention in

custody nor the necessity to get the mobile details from the various service providers. The only ground on which the learned Addl. Sessions Judge has denied her the benefit of bail is on the premise that she is a resident of Bijapur, Karnataka and that she has no fixed place of residence. In any event, the procurement of the details of the various mobiles from the service providers and the detention of her husband in the course of time are matters which cannot be posed as obstacles in the release of the Applicant on bail. Having thus considered the records in their proper prospective, there is no basis in the opposition to the release of the Applicant on bail and accordingly, i pass the following :

ORDER

(1) The Applicant shall be enlarged on bail upon executing a personal bond of ₹20,000/- and furnishing a local surety in the like-amount to the satisfaction of the learned Addl. Sessions Judge, Panaji.

(2) The Applicant shall report at the Police Station whenever called upon and shall otherwise co-operate with the course of investigation.

(3) The Applicant shall furnish her detailed address in Goa and her contact number both land-line, if any, and the mobile phone and shall not leave the territorial limits of the State

of Goa without the prior written permission of the learned Addl. Sessions Judge, Panaji.

(4) In these terms, the application stands disposed of.

NUTAN D. SARDESSAI, J.

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