

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO.608 OF 2017**

1. Tapas Pratap Sarkar  
2. Khelun Jainol Shaikh .. Applicants  
vs.  
State of Maharashtra .. Respondent  
...  
Mr.A.P.Mundargi Sr.Advocate I/b  
Mr.G.M.Mohite for Applicants.  
Ms.J.S.Lohakare APP for State.

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**CORAM : PRAKASH D. NAIK, J.  
DATED : 07 July 2017.**

**P.C. :**

1. The Applicants are seeking bail in connection with C.R.No.I-426 of 2016 registered with Navghar police station for offence punishable under sections 370 (7) of IPC and sections 4,5 and 6 of the PITA Act.

2. The Applicants were arrested on 18.12.2016. The investigation is completed and charge sheet has been filed.

3. The prosecution case is that the Applicants are

working as Manager and Waiter at Hotel Mansarovar. The police reached the premises and it was noticed that some women were indulging into prostitution. Hence, FIR was registered.

4. Learned Advocate for the Applicants submitted that section 370 of IPC would not be attracted. He further submitted that provisions of sections 5 and 6 of the PITA Act are also not attracted and at the most section 4 will apply. In the absence of the statement of the women who were indulging in prostitution charge under section 370 IPC cannot be substantiated. The charge sheet is filed and further detention is not necessary.

5. The learned APP submitted that the Applicants are involved in two similar cases which are against society. She submitted that two cases are registered against the Applicants at earlier point of time and they are likely to tamper with evidence if released on bail.

6. Perused the documents. I have also perused the order passed by the Sessions Court. Admittedly, statements of the women who were allegedly indulging in prostitution were not recorded and since the charge sheet is filed question of now recording their statements does not arise. Therefore, applicability of section 370 of IPC is in doubt. The record also does not indicate any material to support the charge under section 5 and 6 of the PITA Act. It is true that offences are against society but, further considering the nature of evidence in the present case, bail cannot be denied to the Applicants. Trial may not commence immediately. They are in custody since 8.12.2016.

7. In view of the aforesaid circumstances, the Applicants can be released on bail on certain stringent conditions. Hence, the following order :

#### ORDER

- (i) Bail Application No.608 of 2017 is allowed.
- (ii) Applicants are directed to be released on bail in connection with C.R.No.I-426 of 2016 registered with

Navghar police station on furnishing P.R.Bond in the sum of Rs.20,000/- each with one or two local sureties in the like amount.

(ii) The Applicants are directed to report Navghar Police Station once in a month on first Saturday of the month between **11 a.m. to 2 p.m.** till further orders.

(iii) The Applicants are directed to furnish details of their residence address to the Investigating Officer after they are released on bail.

(iv) The Applicants should not tamper with the evidence.

Application disposed of .

**(PRAKASH D. NAIK, J.)**