

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO.704 OF 2017**

Manja Kempe Gowda .. Applicant

vs

State of Maharashtra .. Respondent

Mr.P.R.Dave for Applicant

Mr.C.K.Pethe APP for State

CORAM : PRAKASH D.NAIK J**DATE : 21 JULY 2017.****P. C. :**

1. This is an application for bail. The Applicant is seeking bail in connection with C.R.No.II.3109 of 2016 registered with Vartak Nagar Police Station for offence under section 370 of IPC and sections 3 and 4 of the PITA Act. The Applicant was arrested on 4.12.2016. On completing the investigation, the charge sheet has been filed.

2. The case of the prosecution is that a Officer of the Thane Municipal Corporation filed a FIR with the police for the aforesaid offences. The Corporation were on a drive of demolition of

unauthorised structures. During the said drive, the premises viz Satyam Lodging and Boarding situated at Pokran Road, Thane was also demolished. During the demolition process, the Officers noticed some empty bottles and used condoms at the said site. It was therefore, submitted that the Lodge was used for carrying on prostitution activities and therefore, FIR was lodged. The Applicant and others were subsequently arrested. During the course of investigation, on the basis of the statement of one of the accused, two women were rescued. Their statements were also recorded.

3. The learned Counsel for the Applicant submits that section 370 of IPC is not attracted against the Applicant. It is submitted that the premises was taken on leave and licence basis from its original owners by executing the agreement. It is submitted that the Applicant has been falsely implicated in this case. He pointed out the statements of the victims. In the said statements, they have mentioned that they were indulging in prostitution for earning their lively-hood. It is submitted that the said women had not stated that they were forced into prostitution by the Applicant or any other persons and therefore, section 370 of the IPC is not

attracted. He further submitted that assuming that sections 3 and 4 of the PITA Act are applicable and they are punishable with two years and three years imprisonment. It was further submitted that the Applicant is in custody from 4.12.2016 and the charge sheet has been already filed.

4. The learned APP opposed the application for bail. He pointed out the statement of the complainant in support of his arguments. It is submitted that prostitution activities were being carried out at the said Lodge. It is further submitted that the victims have identified the applicant. It is submitted that there is evidence of prostitution activities which were being carried out at Satyam Lodge and Boarding which was taken on leave and licence basis by the Applicant.

5. I have perused the charge sheet and the statements of the women that were recorded by the police under section 164 of Cr.P.C. It also indicate that they were in prostitution activities. It is not stated that they were forced to indulge in prostitution. They are major by age.

6. The provisions of sections 3 and 4 and 5 of PITA Act are also invoked in the present case. The punishment which may attract for offence under section 3 of the PITA Act if proved in present case is up to three years and for section 4 would be up to two years. It is submitted that even section 5 is at the most if convicted would invite punishment up to 7 years. The charge sheet is filed. The Applicant is in custody from the date of arrest. There are no antecedents against the Applicant which fact is confirmed by the learned APP on instructions. The charge of forgery in respect to the premises is not attracted against the Applicant.

Hence, the following order :

ORDER

- (i) Bail Application No.704 of 2017 is allowed. The Applicant is directed to be released on bail on his furnishing P.R.Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (ii) The Applicant is directed to report at Anti-Human Trafficking Cell, Crime Branch, Thane once in a month of every Saturday between 11 a.m. to 1 p.m.
- (iii) The Applicant shall not tamper with the evidence.
- (iv) The Applicant shall attend the trial Court during the hearing of the trial proceedings,.

(v) At this stage, it is submitted that the nephew of the Applicant has expired (sister's son) and his presence is required for performing last rites and rituals and therefore he may be granted cash security for a period of four weeks. In the circumstances, the Applicant is permitted to furnish cash surety in the sum of Rs.50,000/- for a period of four weeks.

7. All concerned to act on an authenticated copy of this order.

(PRAKASH D.NAIK, J)