

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1290 of 2017**

Mrs. Ruksana Irfan Sahikh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. C. K. Pendse for the applicant.

Mr. A. R. Kapadnis, APP for the respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 23 JUNE 2017

P.C. :

1. This is an application for bail. The offence is registered with Juhu Police Station, Mumbai vide C.R. No.178 of 2017 for the offences punishable under sections 370(3) of IPC and sections 4 and 5 PITA Act.

2. The case of prosecution is that on 1st April, 2017 at about 10.00 am confidential information was received by the police that one lady Ruksana is running prostitution racket in and around Juhu and Oshiwara. The police managed to get mobile number of the said woman. The trap was arranged. One person was asked to go as a customer. The said person called Ruksana on her mobile phone and it was agreed that she would provide a woman for illicit sexual

relationship for an amount of Rs.3000/-. Accordingly, the place of meeting was decided. It is further alleged that Ruksana (applicant) came alongwith three ladies at the appointed place where it was alleged that raiding party had conversation with her and paid an amount of Rs.3000/-. The raiding party then apprehended the accused. It is alleged that the accused/ applicant is playing the role of soliciting customers for three ladies for which she used to charge commission. Hence, the FIR was registered. The applicant was arrested on 2 April, 2017 and since then she is in custody.

3. Learned advocate for the applicant Mr. Pendse submitted that the prosecution has attributed the role of being pimp to the applicant. He submitted that taking the role attributed to the applicant the prosecution case would at the most will be covered by clause (c) of section 4 which relates to the act as contemplated under that provision being committed by a person acting as tout or pimp on behalf of the prostitutes. He further submitted that the women were found in the company of the applicant / accused and they had agreed to indulge in prostitution. They were major. There are no allegations which would attract section 370(3) of IPC. He further submitted that the applicant is in custody since 2 April, 2017. The entire

investigation is over and further custody of the applicant is not necessary. He submitted that the applicant has no criminal antecedents. She is permanent resident of Mumbai.

4. Learned APP controverted the submissions advanced by the learned advocate for the applicant. He submitted that the applicant is involved in the serious crime and bail should not be granted to the applicant. He submitted that reading the statement of the complainant and the witnesses, the prosecution case is covered by section 5 of PITA Act. He submitted that there is no merits in the submissions advanced by the learned advocate for the applicant that this case would fall under section 4 of the PITA Act. He further submitted that if bail is granted to such person, she will not be available for trial. He further submitted that even section 370(3) of IPC is also attracted in the present case.

5. Perused the FIR and the investigation papers produced by the learned APP. The FIR indicates that the applicant / accused was acting as a tout / pimp and getting commission for soliciting customers to the said women. Admittedly they were major. There is no material to show that the applicant had induced them to indulge in the prostitution.

6. Taking into consideration, the fact as stated in FIR, the applicant is allegedly acting as tout. Prima facie it appears that the case would be covered by section 4(c) of PITA Act punishable with two years of imprisonment. The applicant is in custody since April, 2017. Although, the chargesheet is not filed, the investigation is complete and further custody of the applicant is not necessary, hence I am inclined to allow this application.

7. Hence, I pass the following order;

:: ORDER ::

- (i) The applicant is directed to be release on bail in connection with C.R. No.178 of 2017 registered with Juhu Police Station, Mumbai on furnishing P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only.) with one or more sureties in the like amount.
- (ii) The applicant is directed to report to Juhu Police Station, Mumbai once in a week on every Saturday between 11.00 am to 1.00 pm till further order.
- (iii) It is clarified that observations made in this order are only for considering the application for bail.
- (iv) Application stands disposed of.

[PRAKASH D. NAIK, J.]