

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1609 OF 2016

Shabeena Usman Qureshi

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Raviraj Parmare Advocate for Applicant.

Mr. M. G. Patil APP for the State.

Mr. S. K. Nagar, H.C. Mumbra Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 16th FEBRUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 05/01/2016 in crime no. 11 of 2016 registered at Mumbra Police Station for offence punishable under sections 370 (2) (3) of the Indian Penal Code and section 4, 8 & 17 of Protection of Children from Sexual Offences Act, 2012. Investigation is completed and charge-sheet is filed. Co-accused Shehnaz Haroon Sharif has been enlarged on bail by this Court (Coram: N. W. Sambre, J.) vide order dated 07/12/2016.

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2) It is the case of the prosecution that on the basis of secret information received by AHTC Crime Branch, Thane, police of Mumbra Police Station had raided the residential premises of the present applicant. A trap was laid by sending a decoy customer. Police had reliable information that the said residential premises is being used as brothel. In the course of raid, three girls were rescued. One of them was a minor. Applicant was taken into custody.

3) Perused the charge-sheet, more particularly the statement of the minor who was rescued at the time of raid. She has specifically disclosed to the police that she belongs to economically backward class. Her parents could not afford her education and therefore she had to drop out from school after passing 7th standard. She was taking classes in stitching. There she met Shehnaz Sharif who informed her that she could earn money by entering the profession of prostitution. She was lured by Shehnaz Haroon Sharif. She agreed to enter into the said profession. She was taken to the house of present applicant. There were several girls in that house. The said victim got acquainted with them. On 05/01/2016, there was a raid and she was rescued.

4) On the basis of the statement of the minor, it cannot be said that present applicant had either procured her, forced her into prostitution or detained her

for the purpose of prostitution. It is not clear as to whether the age of the victim was disclosed to the present applicant. In fact, it was Shehnaz Sharif who had introduced her to prostitution. She has been enlarged on bail. The learned counsel for the applicant submits that by virtue of doctrine of parity, present applicant would also be entitled to be enlarged on bail.

5) The learned counsel submits that the premises i.e. Mahadev Apartments, 2nd floor, room no. 202, Almas Colony, Kausa, Mumbra is her own property. She has no criminal antecedents. That she could only be prosecuted under section 3 of Immoral Traffic (Prevention) Act, 1956 Act.

6) Section 3 of the Immoral Traffic (Prevention) Act, 1956 Act reads as follows:

“3. Punishment for keeping a brothel or allowing premises to be used as a brothel.—

(1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than two years and which may extend to three years and also with fine which may extend to ten thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which shall not be less than three years and which may extend to seven years and shall also be liable to fine which may extend to two lakh rupees.

(2) Any person who,—

(a)

(b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as a brothel, or is wilfully a party to the use of such premises or any part thereof as a brothel, shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.”

7) In view of this, applicant deserves to be enlarged on bail. However, it is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more local solvent sureties in the like amount.
- (iii) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)