

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2023 OF 2017

Bikramjit Singh Joginder Singh ...APPLICANT

V/s.

The State of Maharashtra ...RESPONDENT

Mr.Subhash Jha a/w Sanjana Pardeshi, Ankita Pawar and Harekrishna Mishra i/b Law Global for the Appellant.
Ms.J.S.Lohokare, APP for the State.
API Nagesh Puranik, ARD Cell, DCB CEO Crime Branch Mumbai.

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CORAM: A.M.BADAR, J.

DATE: 9th October, 2017

PC:-

1. The applicant/accused in Crime No.17 of 2017 for the offences punishable under Sections 370(5), 465, 467,468, 471,419, 420, 17, 120(B) of the Indian Penal Code read with Section 12(1)(2) of the Passport Act registered with police station Anti Robbery and Dacoity Cell, Crime Branch, Kurla (West),Mumbai,(Crime No.122 of 2017 of Sahar Police Station, Mumbai) by

this application filed after filing of the chargesheet is seeking his release on bail during the pendency of the trial.

2. Heard the learned senior Counsel for the applicant/accused. By drawing my attention to the First Information Report lodged by Ulhas Vasant Parab, police head constable as well as on statements of alleged victim Anmol Paramjit Singh, Rohit Rajesh Wasudevay, Tirendrapal Simarjit Singh and Gurvindersingh Sardar Nishan Singh, the learned senior Counsel argued that statements of these alleged victims shows that they desired to go to some foreign country and therefore they insisted their parents to contact the present applicant for sending them to some foreign country. My attention is also drawn to statements of parents of these four minors in order to submit that offence punishable under Section 370 of the Indian Penal Code cannot be made out with such evidence. It

is further argued that rest of offences alleged against present applicant are Magistrate Trial offences and therefore after completion of investigation further detention of the present applicant is not warranted.

3. The learned APP opposed the application by contending that the applicant is the kingpin of the racket of trafficking minor children in foreign countries. She argued that during investigation it was found that 95 children were sent to foreign countries by the gang led by the present applicant. The learned APP further argued that raid at the place of employee of the present applicant, who is co-accused in this case revealed that 135 children got passport through the applicant and co-accused in this crime. Only 33 parents of children sent to foreign countries are traced out up till now. The learned APP further argued that children who are sent to foreign countries are contacting their parents only once or twice in a month and they are not disclosing

their location and therefore, the applicant is not entitled for bail. The learned APP further argued that the applicant is from Punjab and there is every likelihood of his committing same offence in future. He may not be available for trial at Mumbai and he may pressurise witnesses in this case.

4. I have carefully considered the rival submissions and perused the record made available including the First Information Report, statements of alleged victims and their parents. It is well settled that unless and until the guilt is proved, an accused is considered to be an innocent. Pre trial detention is warranted, when there is likelihood of tampering of evidence, absconding of the accused or unavailability to receive the sentence, if any, imposed on him.

5. In the case in hand investigation of the crime in question is already over and the chargesheet is filed.

The Investigator, no doubt can conduct the further investigation to collect additional material. Section 370 of the Indian Penal Code contemplates exploitation. Consent of the victim is immaterial while finding the guilt of the accused in respect of this offence. Exploitation includes physical as well as sexual exploitation and exploitation by other modes. This term is made inclusive by Section 370 of the Indian Penal Code. In the light of this definition, at the time of the trial it will have to be decided whether requesting the applicant by victim minors or their parents for taking alleged victims to some foreign country amount to their exploitation as envisaged by section 370 of the Indian Penal Code.

6. The learned APP pointed out that presently the applicant is holding elective post and representing the public at Punjab. Prima facie, this indicates that he has deep roots in the society and he will be available for

trial and receiving the sentence, if any. Apprehension of the prosecution that the applicant may involve in commission of same crime in future can be taken care of by imposing stringent condition.

7. In this view of the matter, further pre-trial detention of the applicant after filing of the chargesheet is not warranted and therefore the following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant/accused in Crime No.17 of 2017 for the offences punishable under Sections 370(5), 465, 467,468, 471,419, 420, 17, 120(B) of the Indian Penal Code read with Section 12(1)(2) of the Passport Act registered with police station Anti Robbery and Dacoity Cell, Crime Branch, Kurla (West),Mumbai is directed to be released on bail on executing P.R.Bond of

Rs.1,00,000/- with one or two solvent sureties in the like amount.

(iii) The applicant shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to the Police Officer.

(iv) As a condition of this order, the applicant is directed to report to Police Station Anti Robbery and Dacoity Cell, Crime Branch, Kurla (West), Mumbai, in Crime No.17 of 2017 once in every Monday of the month in between 11.00 a.m. to 1.00 p.m. till completion of trial.

(v) The applicant should not commit any crime of similar nature in future.

(vi) The applicant should continue to keep his passport with the investigating officer. The applicant should not go to

any foreign country during the pendency of the trial of this offence against him till completion of the trial.

(vii) The applicant should not tamper with evidence.

(viii) The application stands disposed of accordingly.

(A.M. BADAR, J)