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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1844 OF 2016

Ruby Vimal Thakur

..Applicant.

V/s.

The State of Maharashtra & Anr.

..Respondents.

Mr. Prabhanjay R. Dave for the Applicant.

Mr.V.V. Gangurde, APP for the Respondent-State.

Mr.Gaurav Parkar for the original complainant.

Mr.Asha Korake, PI, DCB, CID unit-9, Bandra, Mumbai present.

CORAM : REVATI MOHITE DERE, J.

DATED : SEPTEMBER 14, 2017

P.C.:-

Heard learned counsel for the parties.

2. By this application, the Applicant seeks pre-arrest bail in connection with C.R. No.63/2016 registered with the DCB, CID, Unit-9, Bandra, Mumbai for the alleged offences punishable under

Sections 366(A), 372, 373, 376, 120(B), 420, 465, 468 and 471 of the Indian Penal Code and sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

3. Learned counsel for the Applicant submits that the allegations as against the Applicant are false, vexatious and baseless. He submits that the complainant left with Mukesh Khimasia in November, 2014, however, the aforesaid complaint was lodged only in September, 2016. He submits that the allegations, that the complainant was taken to Agra and from there to Dubai, are not as against the Applicant, but other co-accused. He further submits that Applicant's both kidneys have been transplanted and that she is bed-ridden.

4. Learned APP is unable to point out any material to show the Applicant's complicity, except the complainant's statement. He has tendered the statements of the witnesses recorded under section 164 of the Criminal Procedure Code.

5. Learned counsel for the complainant opposed the application. He submitted that the Applicant along with other co-

accused are involved in flesh trade. He submits that as a result of the flesh trade, the complainant and other victim girls have undergone physical and mental trauma. He submitted that the complainant with the help of one Mukesh Khimasuria gathered courage and has filed the aforesaid complaint. He further submitted that the complainant has also filed a writ petition in this Court seeking transfer of the investigation to CBI and that the same is pending.

6. Perused the papers, including the statement of the complainant dated 13 September, 2016 as well as the 164 statements of witnesses. According to the complainant, when she was 7 years old, one Radhe, took her to Delhi and kept her in Gola Village; that on the next day, the Applicant and others had come to Gola village; that Radhe handed her over, to co-accused Vimal (Radhe was the brother-in-law of Vimal); that Vimal took her along with her family members to Agra and thereafter, she was brought to Kandivli, Mumbai by the co-accused and the Applicant; that after coming to Mumbai, she was made to do household work in the Applicant's and co-accused's house (all accused are related); that two girls Pooja and

Durgeshi were also brought from outside like her; that other girls were sent to school and when she requested the Applicant and others that she should also be permitted to go to school, they refused. She has further stated that after four to five years, the Applicant and co-accused purchased a new house and moved to Andheri, Mumbai and they took her along with them. She has stated that she was around 11 years at that time. She has stated that even at Andheri, she was made to do household work and that the accused would assault her. She has further stated that when she attained 14 years in 2005, the Applicant and other co-accused bought her new clothes and asked her to wear the same and took her to Santa Cruz, Mumbai, to a Ladies Dance Bar. She was told that they are also bar dancers and showed her how to dance and how to deal with the customers. She has further stated that the Applicant took her to Madhuban Dance Bar, Vile Parle (E), Mumbai and was made to dance at the Ladies Dance Bar for about 7 to 8 months. According to the complainant, the Applicant had asked her to have physical relation with one customer. However, when she refused, she was threatened with assault by the Applicant and co-accused Poonam and Anju Thakur.

According to the complainant, she was made to indulge in prostitution and that she was taken to hotels and was compelled to have physical relations with customers. According to the complainant in 2009, she was taken to Agra by co-accused Poonam Thakur. She has stated that co-accused Sushil Thakur and Jitu Thakur arranged her passport and forced her to go to Dubai; that she went to Dubai against her will on three-four occasions and stayed there for about two-three months at a time. No role has been assigned to the Applicant for the period from 2009 to 2011. She has further stated that in 2011, when she returned from Dubai to Mumbai, she was sent to Hotel Garden View by the co-accused, where she got acquainted with one Mukesh Khimsuria. She has stated that she disclosed to Mukesh about her plight and that Mukesh decided to help her. She has further stated that when the Applicant and the co-accused learnt about her friendship with Mukesh, they started threatening Mukesh. She has stated that thereafter, in November, 2014 she left accused's house with Mukesh. The aforesaid complaint was lodged on 13 September 2016 after almost two years. Statements of the witnesses which have been

recorded under Section 164 Cr.P.C., do not show the complicity of the Applicant. In fact, they do not support the complainant's case. All the other co-accused were arrested and subsequently enlarged on bail. It is also not in dispute, that asApplicant's both kidneys had failed, she was required to undergo renal transplant and is bed-ridden. The Applicant was granted interim protection in 2016 which was continued from time time. There are no allegations against the Applicant by the complainant, during 2009-2011, either of forging or fabrication of records or of having sent her to Dubai. Admittedly, the Applicant and her family members are bar dancers.

7. In the peculiar facts of this case and considering the medical condition of the Applicant, the application is allowed and the Applicant is granted pre-arrest bail in the following terms and conditions :-

- (i) In the event of the arrest, the Applicant be enlarged on bail on her executing P.R.bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount;
- (ii) ;[uThe Applicant shall report to the Investigating Officer of

the concerned Police Station as and when called;

- (iii) The Applicant shall not contact the complainant, witnesses or any person concerned with the case.
- (iv) The Applicant shall inform his latest place of residence and mobile contact number and / or change of residence or mobile details, if any, from time to time to the trial Court as well as to the Investigating Officer, DCB, CID, Unit-9, Bandra, Mumbai;

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)