

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2588 OF 2017

Hasina Zafar Khan @ Hasina Mohammed ...Applicant
Zafar Khan
Versus
The State of Maharashtra ...Respondent

Mr.Harideep Singh for the applicant.
Ms.P.N.Dabholkar, APP for the State

CORAM: A.M. BADAR, J.
DATED: 22nd NOVEMBER 2017

PC:-

1. The applicant/accused in crime No.277 of 2017 registered with Kashimira police Station for the offences punishable under Sections 366(A),372 r/w 34 of the Indian Penal Code and under Section 3,4 and 5 of Immoral Trafficking Act, 1956 r/w Section 18 of the Prevention of Children from Sexual Offences Act 2012, by this application is seeking her release on bail during the pendency of the trial.

2. Heard the learned advocate appearing for the applicant/accused. He argued that the police had received

information at 8.30 p.m. The panchnama is concocted. No panch witness has attended the spot of the incident. It is further argued that statement of Manohar Waghela is contrary to the recitals in the panchnama and it shows that the panch witness was not allowed entry inside room No.603. The learned advocate further argued that the alleged victim has also not stated that the panchnama was inside the room. The incident in question allegedly took place in a registered society but there are no complaints of other residents of the society. The learned advocate further argued that statement of the residents in the vicinity are also not recorded. Statements of the witnesses are cyclostyled and therefore the applicant is entitled for bail.

3. The learned APP opposed the application by pointing out the statement of the victim girl as well as seizure effected from the spot of the incident.

4. I have carefully considered the rival submissions and also perused the entire charge-sheet. According to the prosecution case, the applicant alongwith the co-accused were involved in procuring the minor girl and selling her for the purpose of prostitution. The prosecution is alleging that accused persons are procuring the minor girls for the sake of prostitution and they are living on earnings of prostitution by keeping brothel.

5. Manohar Waghela, works for the NGO named "Transforming Lives Foundation" (TLF). He informed the police that co-accused Ruma Begam has provided the minor virgin girls to the customers for the purpose of sexual intercourse by receiving hefty amount of Rs.1.5 lakh from each customer. This is being done in room No.603 of the Caroline Co-operative Housing Society at Miraroad, East.

6. The charge-sheet shows that thereafter, panchas were summoned and raid was effected after laying the trap. Papers

of investigation shows that though the spot of the incident is referred to as the room but it was in fact a flat/apartment.

7. The charge-sheet reflects that when the raiding team rushed in that flat, some females including female accused were found present. In the bed room of that apartment, the minor female victim was found in company of decoy customer i.e. Manohar Waghela. The prosecution has collected date of birth certificate of the minor female victim which goes to show that she was below 16 years of age at the time of the incident.

8. What is important in the instant case, is the version of the minor female victim. Her statement reveals that after the death of her father, her mother i.e. accused Shabana @ Shabina married another man. The minor female victim was kept in a hostel at Mumbra. When the minor female victim came to the house of her mother i.e. accused Shabana her mother and friend of her mother namely, Hasina i.e. the

present applicant took her to the flat No.603 of Caroline Co-operative Housing Society on the pretext of taking her to the hospital. The minor female child further disclosed that co-accused Ruma is friend of her mother Shabana. Ruma was present in the said apartment. After some time, one uncle came in that apartment and she alongwith other girls were shown to that uncle in the apartment. Subsequently, Ruma asked her to come in the bed room with that uncle by informing that the amount of Rs.50,000/- is being paid to her mother.

9. Statement of Manohar Waghela shows that he as well as panch witnesses in fact entered in the apartment. Then he was taken to the inside room and he was shown some girls. He selected the minor female victim and then gave pre arranged signal to the police party.

10. This evidence collected by the prosecution during the course of investigation points out that there was procurement

of minor girl for subjecting her to illicit intercourse and for the purpose of the prostitution by the present applicant alongwith the co-accused.

11. Considering the nature of offence and the manner in which it is committed as well as the fact that it affects the societal interest no case for bail is made out. Therefore, the application is rejected.

(A.M. BADAR, J)