

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1837 of 2018**

Priyansh Jain, S/o. Shri P.C. Jain, Aged About 26 Years, R/o.- Minocha Colony, Vaishali Pride, Police Station Civil Lines, Bilaspur, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through- Mahila Aarakshi Kendra, Bilaspur, District- Bilaspur, Chhattisgarh.

---- Respondent

AND**M.CR.C. No. 3159 of 2018**

Smt. Swati Mishra, W/o. Sanjeet Kumar, Aged About 25 Years, R/o. Green Valley, Flat No. 1-D-3, Chouhan Green Valley, Junwani, Bhilai, District-Durg Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : The Incharge, Mahila Thana, Bilaspur, District : Bilaspur, Chhattisgarh.

---- Respondent

For Applicants	: Mr. B.P. Sharma, Advocate & Mr. Suyash Dhar, Advocate
For State/respondent	: Mr. Aaditya Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****01/05/2018**

- Both the bail applications are heard and decided together by this common order as they are arising out of the same crime number and the incident.
- These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime No.05/2018, registered at Police Station – Mahila Aarakshi Kendra, Bilaspur, District

– Bilaspur (C.G.), for the offence punishable under Section 365, 366B, 368 & 370 of the Indian Penal Code and Section 3, 4, 5, 6, 7 & 9 of Prevention of Immoral Trafficking Act.

3. It is submitted by the learned counsel for the applicant – Priyansh Jain that the applicant has been falsely implicated in this case. Applicant is in jail since 07.02.2018. No case is made out against the applicant on the basis of the material present in the case. The Spa run by the applicant – Priyansh Jain in 36 City Mall does not fall under the definition of brothel under the provisions of PITA Act. The Thai girls, who were arrested during the raid were initially made accused in this case and they have given memorandum statement that they were forced for prostitution by applicant- Priyansh Jain. Subsequently, the statement of Thai girls have been recorded under Section 164 of Cr.P.C. to exempt them from the prosecution. Surprisingly, the Thai girls who were not having knowledge of any other language than Thai language, have given statement through interpretor and the interpretor has sworn before this Court that he has knowledge of Thai and English language, whereas, the statement has been recorded in Hindi. As informed, the Thai girls have been released and they have left the country. Some of the co-accused persons have been granted bail in this case, hence, it is prayed that the applicant – Priyansh Jain may be enlarged on bail.
4. Counsel for the applicant – Smt. Swati Mishra submits that the allegation against this applicant is this that she was the person through whom the, Thai girls were called to be engaged in the Spa. Similarly placed co-accused persons Narendra Tiwari has been granted bail by

this Court, hence, it is prayed that this applicant be also enlarged on bail.

5. On the other hand, learned counsel for the State opposes the bail applications and the submission made in this respect. It is submitted that sufficient material is present in the case diary to show that the applicant – Priyansh Jain was carrying out the business of prostitution making use of Thai girls and they were not paid remuneration and were compelled to stay as their passport were seized by this applicant. Similarly, the applicant -Swati Mishra, is the facilitator of this illegal business, hence, both of them are not entitled for grant of bail.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. The case of the prosecution in brief is this that a raid was conducted by Mahila Thana, Bilaspur in Amaya Day Spa situated at 36 City Mall, Bilaspur under the proprietorship of applicant- Priyansh Jain. Some men and women were found with objectionable articles, who were arrested on the spot. The Thai women, who were arrested on the spot were earlier made accused in this case and later on they have exempted and they have made statement as witnesses against the applicant – Priyansh Jain, that he was the person, who had engaged them in Spa and have forced them in immoral business of prostitution.
8. Applicant – Swati Mishra has given memorandum statement admitting that she had brought the Thai girls to Bilaspur for getting them engaged in Amaya Day Spa, which appears to be only the statement against her in the investigation in the case.

9. Considered the submissions made and the contents of the case diary. Considering the entire material present in the case diary and looking to the evidence that has been collected against the applicant – Swati Mishra and also considering the fact that similarly placed co-accused has been enlarged on bail, this Court is of the opinion that present is a fit case, in which, the applicant – Swati Mishra should be enlarged on regular bail.
10. Whereas, considering the diary statement of the witnesses the Thai girls, who have stated about being forced for prostitution business against the applicant- Priyansh Jain, this Court is of the opinion that present is a not fit case, in which, the applicant – Priyansh Jain should be enlarged on regular bail.
11. Accordingly, the bail application filed under Section 439 of the Cr.P.C. bearing M.Cr.C. No.3159/2018, filed by the applicant Smt. Swati Mishra is allowed. Whereas, the bail application bearing M.Cr.C. No.1837/2018, filed by the applicant – Priyansh Jain is hereby dismissed.
12. It is directed that applicant – Swati Mishra shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for her appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge