

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 277 OF 2018

PHOOLABAI KORI, REP. BY HER
FRIEND, RAHIM USMAN AGA.,

... Applicant

Versus

STATE OF GOA, THR. ITS POLICE
INSPECTOR ATTACHED TO COLVA POLICE
STATION, COLVA AND ANR.,

... Respondents

Adv. Athnain Naik for the Applicant.

Mr. S. R. Rivankar, Public Prosecutor for the Respondent/State.

Coram:- C. V. BHADANG, J.

Date:- 11th September 2018

P.C.:

This is an application for bail.

2. The applicant along with co accused Asif Usman Aga were arrested for the offence punishable under section 370-A(2) of I.P.C r/w sections 4, 5, 6 and 7 of the Immoral Traffic (Prevention) Act. According to the prosecution, there is a 'Shadow Salon and Spa', which was being run at Akar Excelcior Grand Vanelim, Colva where the applicant and the co accused were carrying on prostitution by offering massage to male customers by the victim girls. In the raid conducted by the prosecution, three girls were rescued all of whom are said to be

of major age.

3. The co accused Asif Usman Aga, who is the owner of the premises where the said spa is being run, has already been released on bail by the learned Sessions Judge by order dated 8/8/2018 in Bail Application No.67/2018. While releasing the said co accused on bail, the Sessions Judge has prima facie come to the conclusion that offering "cross massaging", would not fall within the definition of sexual exploitation and the complaint, panchanama and the statements of the victims do not prima facie show that there was any sexual exploitation of the girls made in the spa. The Sessions Judge has also prima facie found that the statement of the decoy customer was not recorded, although he was available. Although the learned Sessions Judge has released the co accused on bail, by an order of even date has refused to release the applicant on bail mainly on the ground that she is not from Goa and is an outsider. The learned Sessions Judge has also relied upon the guidelines laid down by this Court in the case of FREEDOM FIRM V/S COMMISSIONER OF POLICE, PUNE, decided on 30/10/2015, Cr. PIL No.4/2015.

4. Indisputably after the bail was refused to the applicant, the investigation is stated to be complete and a charge sheet is already filed. This is a change in the circumstances which is one of the grounds relied upon by the learned counsel for the

applicant for seeking bail.

5. On hearing the learned counsel for the applicant and the learned Public Prosecutor, I find that the investigation is already complete and the co accessed is already released on bail while holding that there is no case of sexual exploitation made out and none of the victim girls are minors. Thus only on account of the fact that the applicant is hailing from Madhya Pradesh would not be sufficient to deny bail. In my considered view appropriate conditions may be imposed to ensure that she is available for trial. In the circumstances, the following order is passed:

ORDER:

- (i) The applicant is released on bail on execution of a P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty thousand only) with two local sureties in the like amount.
- (ii) The applicant shall furnish her address both at her native place as well as her residence in Goa along with proof in the form of birth certificate, ration card, Aadhar card or the like.
- (iii) The applicant shall also surrender her passport, if any, before the learned Sessions Judge.
- (iv) The applicant shall undertake to attend the trial on the dates fixed before the learned Sessions Judge.
- (v) The applicant shall not tamper with the prosecution evidence

or witnesses and shall not indulge in any similar activities while on bail.

(vi) The Bail Bonds to be furnished before the learned Sessions Judge.

C. V. BHADANG, J.

ap/-