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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.352 OF 2018

Umar Sharif Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Fernandes Jude Sebastian Caitan, for the Applicant.

Mr.S.S.Hulke, A.P.P for the Respondent-State.

PSI – Nilesh Dhonde, Sakinaka Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 24th APRIL, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.85 of 2016 registered with the Sakinaka Police Station, Mumbai, for the alleged offences punishable under Sections 370(A)(1), 370(3) of the Indian Penal Code, under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 (PITA Act) and under Sections 4, 8 and 17 of Protection of Children from Sexual Offences Act.

3. Perused the charge-sheet. According to the prosecution on 13th February, 2016, the Social Service Branch, received secret information, that Femida Shaikh and Umar Shaikh (Applicant) were running a brothel in Shrikrishna Chawl, Room No.3, Kurla (West), Mumbai. Pursuant to the said information, the said premises was raided on 14th February, 2016. The police had engaged a decoy customer, who rescued two girls, from the said premises. One of the two girls was major and the other a minor. On enquiry, it was revealed that the applicant, husband of Femida Shaikh, was running a brothel. The statements of the two victim girls, who were rescued, have been recorded, both under Section 161 as well as under Section 164 of the Code of Criminal Procedure. It is unfortunate that the minor victim girl was forced into prostitution, by her mother, for money. A perusal of the 164 statements of the two victim girls (one major and one minor) shows, that they had named co-accused-Femida Shaikh i.e. the applicant's wife and have stated that Femida Shaikh would call them and ask them to come for prostitution. None of the victim girls have disclosed the name of the present applicant or have alleged that the applicant induced them into prostitution. The applicant has no antecedents.

4. Learned APP also does not dispute the fact, that the main allegations, (as per the victims' statements), are qua Femida Shaikh and not against the applicant. Learned APP also does not dispute the fact that the victim girls have not named the applicant. The applicant is in custody, since 2016. Investigation is complete and charge-sheet is filed.

5. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more local solvent sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Sunday of every month, between 10:00 a.m. to 11:00 a.m., till the framing of the charge;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change

of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall co-operate in the conduct of the trial;

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the trial Court, within two week's of his release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

6. The Application is allowed and disposed of in above terms.

7. 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.

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

(REVATI MOHITE DERE, J.)