

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

BAIL APPLICATION NO.950 OF 2018

Gyani Manbahadur Tamang Applicant
Vs.
The State of Maharashtra Respondent

**ALONGWITH
BAIL APPLICATION NO.879 OF 2018**

Manju @ Dimple Saila Tamang Applicant
@ Rumila Milan Tamang
Vs.
The State of Maharashtra Respondent

Mr. Aniket Nikam I/by Mr. Aashish Satpute for the Applicants.
Ms. Veera Shinde, APP for the State.
Mr. Balasaheb D. Jarad, PSI, Faraskhana Police Station, Pune

Coram : Smt. Sadhana S. Jadhav, J.
Date : 26th June, 2018

P.C.:

1 Heard the learned counsel for the applicants and the
learned APP.

2 These are the applications under Section 439 Code of Criminal Procedure. The applicant Gyani is arrested on 8th November 2017 in Crime No. 194 of 2017 registered at Faraskhana police station, for the offences punishable under Sections 376, 366(A), 370, 370(A) read with 34 of Indian Penal Code. The applicant Dimple is arrested on 30th August 2017 in Crime No. 194 of 2017, registered at Faraskhana Police Station, for the offences punishable under Sections 376, 366(A), 370, 370(A) read with 34 of Indian Penal Code and under Sections 4, 6, 17 of POCSO Act and under Sections 3,4,5,6,7 of PITA Act. The investigation is completed and the charge-sheet is filed.

3 It is the case of the prosecution that on 30th August, 2017, the members of Rescue Foundation Home had informed the police that the minor girls are procured, detained and forced into prostitution in Sapana Building, Budhwar Peth, Pune. They were also informed that the said victims are from West Bengal. On the basis of the said information, the police had conducted raid on the

said premises. Two girls, aged about 17 years or more were rescued by the police and were sent to Rescue Foundation Home. At the time of rescuing them, the victim, Ms. "X" had informed that she was misled by her boy-friend namely Rahul, who had brought her to Delhi under the pretext of giving job to her. He had sold her in the red-light area in New Delhi, where she was forced into prostitution. Thereafter the owner of the brothel had sent her alongwith one Kancha and had informed the victim that she was being sent to her own house. Kancha had brought her to Pune and had given her into the custody of Gyani. She was again forced into prostitution. Similarly both the applicants had detained the minor girls and had earned their living by using their services.

4 Upon perusal of the statements of the victim girls, it appears that they were sent from Delhi to Pune alongwith one Kancha. According to the prosecution, Kancha happens to be the husband of the applicant, Dimple. The statement of victim girls were recorded practically after more than 45 girls of their-being rescued

i.e. on 12th October 2017, when they were residing in Rescue Foundation Home. Their statements are recorded in the presence of Superintendent of Rescue Foundation. According to the victims, they were not allowed to go out. There are no criminal antecedents as far as Dimple is concerned. Learned counsel for the applicant submits that there are belated statements at the instance of the members of the Rescue Foundation Home. The main allegations are against the Gyani and the name of the present applicant is also arraigned, subsequently after the applicants were arrested. It appears that the victims were not well-versed with Marathi language, they hail from West Bengal. At the time of raid also, the police had not taken any interpreter alongwith them despite the fact that they had knowledge that the victims, who are to be rescued, hail from West Bengal.

5 Learned APP, upon instructions submits that the victims could speak Hindi and their statements were translated into Marathi language. As far as the applicant, Gyani is concerned, it appears that she was arrested in Crime No. 227 of 2017 for similar offences on 6th

June 2017 and at the time when the raid was conducted in Crime No.194 of 2017, she was in custody. Learned counsel for the applicants submits that the police have not conducted the test identification parade as to whether the victims had identified Gyani. According to the learned counsel, the applicants are in custody for more than nine months. Hence, they deserve to be enlarged on bail.

6 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the order :

ORDER

- i) The applications are allowed.
- ii) The applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.30,000/- each with one or more solvent sureties in the like amount.
- iii) The applicants shall not reside within the jurisdiction of Faraskhana, Khadak and Vishram Baug police stations till conclusion of the trial.

(*Smt. Sadhana S. Jadhav, J*)