

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

CRIMINAL BAIL APPLICATION NO.1049 OF 2018

Naresh Raju Rao

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....
Mr.Kamlesh N. Gujar, Advocate for the Applicant.
Mr.Y.M. Nakhwa, APP for the Respondent - State.
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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 11, 2018.

P.C. :

This is an application for bail, in connection with C.R. No.162 of 2017, registered with Oshiwara Police Station, Mumbai. FIR was lodged on 16th May, 2017. Offences were registered under Sections 366-A, 370-A, 370(1)(3) read with 34 of Indian Penal Code ("IPC", for short) as well as under Sections 4 and 5 of The Immoral Traffic (Prevention) Act, 1956 ("PITA Act", for short) and under Sections 4, 8 and 17 of the Protection of Children From Sexual Offence Act ("POCSO Act", for short).

2 The prosecution case is that the complainant is attached to Social Security Branch. On 26th May, 2017,

information was received from reliable source that a person by name Naresh having his mobile no.9588434819 is indulging in a prostitution racket and on the basis of the said information, Police decided to lay a trap. One Amit Jalan deputed as bogus customer. Mr.Jalan contacted the applicant on the aforesaid mobile number. Applicant informed him that for Providing a girl for prostitution an amount of Rs.30,000/-, will be charged. Meeting was arranged at CCD Hotel at Oshiwara, Jogeshwari, Mumbai. The applicant accused agreed to visit the said place alongwith the girls. The information was passed on to police. Trap was laid. The raiding party visited the spot. After reaching the CCD Hotel, it was noticed that one person alongwith four girls were found discussing with each other. The pancha indicated about the same to the police team, and, accordingly, the applicant and the girls were intercepted by the police. When Mr.Jalan had approached the applicant, he demanded an amount of Rs.30,000/- for providing girls. He handed over bundle of Rs.30,000/- and was informed to take the girls at the guest house. At that time the accused was arrested.

3 The investigation is completed and charge-sheet is filed for the aforesaid offences. Applicant preferred an application

for bail before the Sessions Court, which was rejected on 4th January, 2018.

4 It is submitted that the applicant has been falsely implicated in this case. Investigation is completed and charge-sheet has been filed. Further custody of the applicant is not necessary. It is submitted that the victim girls were major. Although, it is alleged that one of the girl was minor, there is no evidence to establish that she was below the age of majority. It is submitted that it is not the case of the prosecution that the girls were forced to indulge in prostitution. Applicant is in custody from the date of arrest, and, since the charge-sheet is filed, further detention is not needed. There was no conversation between the girls and the accused and the alleged police customer regarding the prostitution at the spot. The victims were not knowing the accused. It is, thus, submitted that the applicant be released on bail.

5 Learned APP submitted that the applicant is involved in serious crime. The information was received that the accused is indulging in prostitution activities. It is submitted that the victims have been induced to enter into the prostitution. One of

the victim was minor on the date of occurrence of the incident. She was induced and misled to visit the place of the incident for the purpose of indulging in prostitution. It is submitted that the accused has committed serious crime under Sections 366-A and 370-A of IPC and the other provisions of IPC as well as PITA and POCSO Act. The grounds raised by the applicant can be agitated at the time of trial.

6 I have perused the FIR and the other statements. The prosecution case is that reliable information was received with regard to prostitution activities conducted by the applicant accused. He is the person who was indulging in the activities and providing the girls to the customers. During the course of investigation, statements of victim girls were recorded. It is true that three girls were major, whereas, one of them was minor, as she was below 18 years. From the statement of the said victim, it can be seen that the applicant was the person who was arranging the prostitution activities and providing girls to the customers. The minor girl has stated in her statement that she was induced to be at the spot of incident for different purpose and, it is apparent that she was brought at the spot for prostitution. She has stated, that she was in search of job. On 15th May, 2017,

applicant had called her and informed her whether she is interested in participating in dance event for which she would be paid Rs.15000/- and, in view of the said offer, she had agreed to meet the applicant. Thus, it is apparent that she was induced to be at CCD Hotel on account of false information provided by the applicant and it is also clear that she was called for the purpose of prostitution. The accused is charged with the offence under Section 366-A of IPC, which relates to offence of procuring minor girl. Section 370-A, relates to exploitation of trafficked person, and, Section 370 (1) relates to trafficking of persons for exploitation. Taking into consideration, the aforesaid circumstances, and the material on record, I do not find that the applicant has made out any case for grant of bail.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1049 of 2018, is rejected.

(PRAKASH D. NAIK, J.)