

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

BAIL APPLICATION NO. 1314 OF 2018

Durgeshkumar Ashokumar Choudhary	... Applicant
Vs.	
State of Maharashtra	... Respondent

WITH

BAIL APPLICATION NO. 1741 OF 2018

Manoj @ Surendra Yadav	... Applicant
Vs.	
State of Maharashtra	... Respondent

...

Mr. P. R. Dave for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.
Ms. Sunita Bhar, API, Nerul Police Station is present.

...

**CORAM : PRAKASH D. NAIK, J.
DATE : 11th SEPTEMBER, 2018.**

P.C.

1. Applicants are seeking bail in connection with CR I-380 of 2017 registered with Nerul Police Station for offence punishable under Section 370, read with Section 34 of Indian Penal Code and Sections 4 and 5 of PITA Act.
2. The prosecution case is that information was received by the respondent that prostitution business was going on internet under the website of Navi Mumbai Escort Services. Accordingly, raid was conducted. Panchas and decoy customer were called and then

bogus customer contacted on the mobile number given in the said website. Thereafter customer was asked to come near D.Y. Patil College where the co-accused and three women had come. Signal was given to the police. Police arrested accused Durgesh. During the interrogation the statement of the women who were found indulging in prostitution were recorded. The applicant in B.A. No. 1314 of 2018 was arrested on 29th November, 2017 whereas applicant in B.A. No.1741 of 2018 was arrested on 11th December, 2017.

3. Learned counsel for the applicant submitted that the victim are major. Their statements were recorded under Sections 161 of Code of Criminal Procedure which shows that in order to earn money they are indulging prostitution activities. It is further submitted that chargesheet does not substantiate the charge under Section 370 of Indian Penal Code. Applicant in B.A. No. 1314 of 2018 is alleged to have made arrangement by procuring the woman. It is further submitted that the investigation is completed, chargesheet is filed. Further detention of the applicants is not necessary. The charge under Section 5 of PITA Act is at most punishable with imprisonment for not less than three years and not more than seven years. There are no criminal antecedents

against the applicants. It is submitted that inquiry was made in accordance with Section 17 of PITA Act, and the victim women has left the State and they went to their native place.

4. On the contrary, learned APP referred the statement of the victim women and submitted that the statements indicates that they were compelled to indulge in prostitution by the accused in B.A. No. 1741 of 2018. The victim was threatened with dire consequences and therefore they had indulged in prostitution. It is therefore submitted that the prosecution case is made out under Section 370 and Sections 4 and 5 of PITA Act.

5. I have perused the statement of the complainant. FIR was registered on 20th November, 2017. The statement of women found to be indulging in prostitution namely Shilpi Yasin Sheikh aged about 34 years, Rekha Jaffar Faida aged about 25 years and Anjana Narayan Mahadei aged about 24 years state that they were coerced by the accused in B.A. No. 1741 of 2018. However, on perusal of the statement, it is also apparent that they were indulging in prostitution for a period of about two years and they have visited various customers from the said period and apparently the version of coercion is debatable. The offence under Section 5 of PITA Act is at the most punishable with imprisonment for not

less than three years and not more than 7 years. The applicants are in custody from the date of arrest. There are no criminal antecedents against the applicants. Investigation is completed and chargesheet has has been filed.

6. Taking into consideration the aforesaid circumstances, the bail can be granted to the applicants.

ORDER

- i) Criminal Bail Application No. 1314 of 2018 and Criminal Bail Application No. 1741 of 2018 are allowed;
- ii) The applicants are directed to be released on bail in connection with C.R. No. I-380 of 2017 registered with Nerul Police Station on furnishing P.R. Bond of Rs.20,000/- (Rs. Twenty Thousand only) each with one or more sureties in the like amount;
- iii) The applicants shall attend Nerul Police Station once in a month on first Saturday between 10 a.m. to 12 noon till further order;
- iv) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- v) The applications stand disposed off.

Digitally signed
by
Sachidanand
Kuttan Nair
Date:
2018.09.18
10:39:42
+0530

(PRAKASH D. NAIK, J.)