

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

CRIMINAL BAIL APPLICATION NO.1455 OF 2018

Aniket Kumar Vinay Kumar Pandey .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Mahesh Vishwakarma a/w. Mr.Abhiraj Das I/b.
M/s.Vishwakarma & Associates, Advocate for the Applicant.
Mr.A.R. Kapadnis, APP for the Respondent – State.
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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 8, 2018.

P.C. :

Applicant seeking bail in connection with C.R.No.I-380 of 2017, registered with Nerul Police Station, Navi Mumbai for the offence punishable under Section 370 (1)(3) read with 34 of Indian Penal Code (“IPC”, for short) and Sections 4 and 5 of Immoral Traffic (Prevention) Act, 1956 (“PITA Act”, for short).

2 The prosecution case is that information was received by the respondents that prostitution business is being conducted through Internet under the Website of Navi Mumbai Escort Services. Accordingly, raid was conducted. Bogus customers

contacted on mobile number given on the said Website. Thereafter, customer was asked to come near D.Y. Patil College where the co-accused and three women were called. Signal was given to police. Police arrested co-accused Durgeshkumar Ashokumar Choudhary. During the interrogation, statement of the women who was found indulging in the business of prostitution was recorded. Other accused, namely, Manoj alias Surendra Yadav was also arrested. Applicant was arrested on 29th November, 2017.

3 Learned counsel for the applicant submitted that the applicant is a student aged about 20 years. He had joined the institute viz. Saraswati Industrial Training Centre at Rohtas. He relies upon the certificate issued by the said institution wherein it is stated that he was a bonafide student of the said institution and he has enrolled himself for ITI Course in Fitter Trade from August 2017 to July 2019. It is submitted that the applicant was in Mumbai on vacation and he was about to return to his native place. It is also submitted that he had booked his tickets for returning to his native place on 22nd November, 2017. It is further submitted that the applicant was allegedly studying with accused no.1 and his mobile number was not reflected on the Website.

The Website indicated the mobile number which is registered in the name of accused no.1. It is submitted that the prosecution is drawing an inference that the mobile number was belonging to the applicant and he was using the said cell phone. It is further submitted that merely on the basis of the inference, the prosecution cannot prosecute the applicant for the alleged offence. It is further submitted that the co-accused, namely, Duregeshkumar Ashokumar Choudhary and Manoj alias Surendra Yadav was granted bail by this Court by order dated 11th September, 2018, passed in Bail Application No.1314 of 2018 and 1741 of 2018. He also pointed out the observations made in the said order that the statements of the women found to have indulged in the prostitution indicate that they were indulging in prostitution for a period of about two years and they have visited several customers during the said period. It is submitted that on the basis of the observations made in the said order, the co-accused were granted bail. There is no evidence to show that the applicant was in Mumbai since last two years. There is no other evidence to connect the applicant with the alleged crime.

4 Learned APP submitted that the mobile phone which was used and recovered from the possession of the applicant was

found in his possession which shows his involvement. It is further submitted that the applicant was involved in the prostitution business and case is made out for offences under Section 370 of IPC and Sections 4 and 5 of PITA Act. It is further submitted that the case of the co-accused was that the ground on which the co-accused are granted bail are not applicable to the applicant. The CDR record show that the applicant was in touch with applicant no.1.

5 I have perused the charge-sheet. Applicant was arrested in pursuant to the arrest of the co-accused who are granted bail. The allegation against the applicant is that he was found in possession of the cell phone. The number of the cell phone was reflected on the Website. The said cell phone was found in the name of accused no.1. There is no other evidence to indicate that the applicant was actively involved in the prostitution business. The women who were found indulging in the prostitution has not named the applicant as the person involved in prostitution. While granting bail, to the co-accused, it is observed by this Court that the victim women who was found to be indulging in the prostitution were major and although it is alleged that they are forced to indulge in prostitution, they were

into prostitution since for two years and according to their statement, they visited various customers. It is also observed that the offence under Section 5 of the PITA Act is at the most punishable for a term of not less than three years and not more than seven years. The co-accused were granted bail. Taking into consideration the aforesaid circumstances, and also considering that, applicant is in custody from 29th November, 2017, and the charge sheet is filed, bail can be granted to the applicant on certain conditions.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1455 of 2018, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.I-380 of 2017, registered with Nerul Police Station, Navi Mumbai, on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall furnish details of his mobile contact number and permanent residential address to the investigating officer;
- (iv) Applicant shall attend the trial Court proceedings regularly on the date of hearing, unless exempted by the Court for some reasons;
- (v) Bail Application Nos.1455 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)