

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

BAIL APPLICATION NO. 2116 OF 2018

Amir Azhar Khan	... Applicant
Vs.	
State of Maharashtra	... Respondent

**WITH
BAIL APPLICATION NO. 2462 OF 2018**

Rajesh Amrutlal Gemlawal	... Applicant
Vs.	
State of Maharashtra	... Respondent

...

Mr. S.G. Rajput for the applicant.
Mr. Y.M. Nakhwa, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 15th OCTOBER, 2018.

P.C.

1. The applicants are arrested in connection with CR No. 103 of 2018 registered with Versova Police Station for the offence punishable under Section 370 read with Section 34 of Indian Penal Code. Applicant in bail application No. 2116 of 2018 was arrested on 4th March, 2018 where as applicant in bail application 2462 of 2018 was arrested on 10th August, 2018. Investigation is completed and chargesheet has been filed.

2. The case of the prosecution case is that on 4th March, 2018. the complainant Bharat Shivaji Debre PSI attached to Versova Police Station has lodged the First Information Report. It is alleged that information was received from the police control room that some suspected person indulging in human trafficking are present at Shringar Saloon, Yari Road, Versova, Mumbai. Informant went to the said spot and met Smt Sood who had provided the information to the police control room. After the police reached the spot, she pointed out two minor girls and other accused person who were present at the saloon in a suspicious circumstances. Inquiry was made with the minor girls who gave their names and stated that they have come from Ahmedabad alongwith their relatives. It is also alleged that they were supposed to travel to USA to meet their parents for which were making arrangement to facilitate their travel to USA. It is further alleged that minor girls were planning to travel on the passport of other girls by impersonating them. The applicants and other accused were supposed to assist them by charging huge fees and allegedly committed the offence of human trafficking. On completing the investigation, the chargesheet has been filed against both the applicants.

3. It is contended by the learned advocate for the applicant that no offence is committed by the accused. Taking the prosecution case as it is at the most it could be said that there was a preparation to commit the offence. The prosecution case is that before the girls could travel abroad by impersonation they were intercepted alongwith others. Thus, no offence is made out against the applicants. It is further submitted that Section 370 of Indian Penal Code is not attracted in this case. Applicant in bail application No. 2462 of 2018 has filed a Criminal Writ Petition No. 2822 of 2018 before the Division Bench for challenging the First Information Report, wherein grandfather and father of one of the girl have filed affidavit and supported the prayers made by the said accused seeking quashing the First Information Report. It is further submitted that admittedly girls were supposed to travel abroad to meet their parents. It is not the case of the prosecution that girls were supposed to travel for any unlawful activities. It is therefore submitted that applicants be released on bail. It is further submitted that co accused Rizwan Ibrahim Chhotani and Afzal Ibrahim Shaikh have been granted bail by this Court.

4. On the contrary, learned APP vehemently opposed the bail application. Learned APP submitted that accused are involved in

serious crime. The girls who were supposed to travel abroad were impersonating some other girls by using their passport. The applicant in Application No. 2462 of 2018 has accompanied the girls from Ahmedabad to Mumbai. It is further submitted that one more case is registered against the applicant in Bail Application No. 2462 of 2018 relating to the forgery of passport. It is submitted that one of the accused is absconding. It is therefore submitted that application be rejected.

5. I have perused the First Information Report, statement of the girls recorded during investigation and other relevant documents. Girls in their statements have specifically stated that they were supposed to meet their parents. This fact is not disputed. Prosecution case is that girls were supposed to travel to USA on the basis of passport which was issued in the name of other girls by way of impersonating, applicants have making all arrangements for their travels. Prosecution has invoked section 370 of Indian Penal Code. The said provisions relates to human trafficking for the purpose of exploitation, which does not appear to be case of prosecution. Attempt is being averted. The girls and accused were intercepted in the saloon. Taking into aforesaid circumstances and more particularly considering the fact that applicant is in custody

from the date of arrest, investigation is completed and chargesheet has been filed, bail can be granted to the applicant on certain conditions.

ORDER

- i. Criminal Bail Application No. 2116 of 2018 and Criminal Bail Application No. 2462 of 2018 are allowed;
- ii. Applicants are directed to be released on bail in connection with CR No. 103 of 2018 registered with Versova Police Station on furnishing P.R. Bond of Rs. 25,000/- each with one or more sureties in the like amount;
- iii. Applicants are permitted to furnish cash security in the sum of Rs.25,000/- for a period of four weeks;
- iv. Applicants shall attend the concerned Police Station once in a month on first Saturday between 10.00 a.m. to 12.00 noon till further order;
- v. Applicants shall attend the trial Court on the date of hearing of the case unless exempted by the Court;
- vi. Applicants shall not tamper with the evidence and/or pressurize the prosecution witnesses;
- vii. Criminal Bail Applications stand disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair
Digitally signed
by Sachidanand
Kuttan Nair
Date:
2018.10.20
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