

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

BAIL APPLICATION NO. 2817 OF 2017

Susheela Jaybahadur Gurang & Anr.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

Mr. S.R. Phanse for the Applicant.
Mr. S.S. Hulke, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.
DATE : 8th JANUARY, 2018

P.C.:

. This is the second bail application by the Applicants for bail in CR No. I-189/2015 registered with Bhiwandi City Police Station, Thane under Sections 370(2), 366A, 366B, 367, 368 read with Section 34 of the Indian Penal Code and under Section 3, 4 & 5 of the Prevention of Immoral Trafficking Act, 1956 and under Sections 3, and 4 of the Protection of Children from Sexual Offences Act (now culminated into Special Case No. 193 of 2015).

2 The earlier Bail Application No. 22 of 2016 preferred by the Applicants was dismissed as withdrawn by this Court by its order dated 20.09.2016 with liberty to file a fresh application for bail before the Trial Court if the trial pertaining to Special Case No. 193 of 2015 pending on file of the learned Special Judge (POSCO Act), Thane does not commence within a period of one year from 20.09.2016. The record indicates that as the trial of the said case did not

commence within a period of one year from 20.09.2016, the Applicant preferred fresh application for bail before the Trial Court which is rejected by the impugned order dated 27.10.2017. In paragraph 9 of the impugned order, the Trial Court has observed that it is burdened with various MCOC time bound cases and about 176 under trial prisoners cases are pending on its file and therefore, it could not commence the trial of the present case.

3 Heard the learned Counsel for the Applicant and the learned APP. Perused the record.

The police after receiving of confidential information conducted raid at Room No. 710, Hanuman Tekadi, Kalyan and found that the Applicant was conducting a brothel therein. At the time of conducting the raid, total 12 victim ladies were found at the scene of offence out of which two were minor and therefore, the provisions of Protection of Children from Sexual Offences Act are applied to the present crime. The record indicates that other 10 victim ladies have stated to the police that they were indulging in the said vocation at their own will because of financial constrains. The learned Counsel for the Applicant submitted that the ossification test of both the victim girls revealed that they were aged about 17-18 years on the date of incident and therefore, benefit of plus one year may be given to them.

4 Prima facie, I find substance in the contention of the learned Counsel for the Applicant.

Applicants are in jail since 02.06.2015, the investigation is completed and chargesheet has already been filed. As noted earlier the trial of the Special Case No. 193 of 2015 has not yet commenced. In view thereof, the Applicants can be released on bail.

Hence, the following order:

- i) The Applicants be released on bail in CR No. I-189/2015 registered with Bhiwandi City Police Station, Thane on their furnishing PR bond of Rs.25,000/- each with one or two separate solvent local sureties in the like amount.
- ii) After their release from jail, the applicants shall attend Bhiwandi City Police Station on every alternate Monday for a period of six months and thereafter, every first Monday of the month between 11.00 a.m. to 1.00 p.m. and mark their presence.
- iii) The Applicants shall also attend all the dates before the Trial Court.
- iv) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.
- v) The Applicant shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.
- vi) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)