

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.117/2018

Chotelal @ Chotu s/o Kisanlal Patle and ors

..VS..

State of Mah., thr. PSO Jawaharnagar, Tahsil and District Bhandara

.....
 Office Notes, Office Memoranda of Coram,
 appearances, Court orders or directions
 and Registrar's orders

Court's or Judge's Order

.....
 Shri Sarang Kotwal, Counsel for the applicants.

Shri T.A. Mirza, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : FEBRUARY 23, 2018.

1. Heard learned counsel Shri Sarang Kotwal for the applicants and learned Additional Public Prosecutor Shri T.A. Mirza for the State.

2. The applicants are arrested in connection with Crime No.184/2017 registered with Police Station Jawaharnagar, Tahsil and District Bhandara for the offences punishable under Sections 363, 366, 366-A, 372, 376(1),(2),(I),(J),(K),(N), 420, 468, and 471 read with Section 34 of the Indian Penal Code and Sections 4, 8, and 12 of the Protection of Children From Sexual Offences Act, 2012.

3. The investigation is over and the charge-sheet is already filed.

4. Insofar as application filed on behalf of applicant No.1

.....2/-

Chotelal @ Chotu s/o Kisanlal Patle and applicant No.3 Chainlal s/o Kisanlal Patle is concerned, learned Additional Public Prosecutor Shri T.A. Mirza for the State submits that this is a second bail application and their bail application, therefore, be rejected.

5. Learned counsel Shri Sarang Kotwal for the applicants invites my attention to compilation at page No.50 which shows that this Court on 14.12.2017 permitted applicant No.1 Chotelal @ Chotu s/o Kisanlal Patle and applicant No.3 Chainlal s/o Kisanlal Patle to withdraw the application since the Court was not inclined to grant the bail. However, the said order shows that the said application was filed before this Court prior to filing of the charge-sheet. Further, liberty was granted to these two applicants to file application afresh before the Court below after filing of the charge-sheet. After filing of the charge-sheet also, learned Judge of the Court below has rejected application filed by these two applicants. Therefore, they have an occasion to approach again before this Court.

6. Wheels of the prosecution were started in the year 2017, especially when the victim lodged her report on 23.9.2017 with Police Station Jawaharnagar, Tahsil and District Bhandara. Her report shows that prior to two years of the report, her grandmother was admitted in the Government Hospital at Bhandara. Therefore, she used to stay along with her for about one month in the said hospital. At that time, one Shilpa Zingre's mother was also admitted in the said hospital and for that Shilpa used to stay in the hospital.

7. It is further stated in the First Information Report (FIR) that after two months, Shilpa came to the house of the first informant and asked the victim, first informant, that she should accompany her for going to Lakhni to see her house. Therefore, the victim had been to Lakhni and she stayed along with Shilpa for about 15 days. At that time, according to the first informant, Shilpa gave a proposal to the first informant that they should work in Cloths Shop and she will see that there will be love affairs between the first informant and Shilpa's brother. However, it was declined by the first informant.

8. After 15 days, father of the first informant came to Lakhni and, therefore, the victim returned to her house.

9. It is further stated in the FIR that on 13.1.2016 in the absence of parents of the first informant, Shilpa again came to her house and asked her that she should accompany her to go to Bhandara and accordingly she accompanied.

10. At Bhandara, she was kept in a house. When she was at Bhandara, one Lalita and two persons from New Delhi came and from the house of Shilpa the victim was taken away. Her bogus Aadhar Card and other identification documents were made.

11. From the gist of the FIR it appears that on 5 occasions this fortunate girl was sold for money.

12. Learned counsel Shri Sarang Kotwal for the applicants submits, from the entire charge-sheet, that the applicants have only attended various marriage ceremonies of the victim girl. He submits

that applicant No.1 Chotelal @ Chotu s/o Kisanlal Patle and applicant No.3 Chainlal s/o Kisanlal Patle were present in the marriage ceremony of the victim on 2nd occasion.

13. Insofar as applicant No.2 Kiran s/o Shivshankar Samrit is concerned, learned counsel for the applicants submits that his presence was in 4th marriage of the victim.

14. Insofar as applicant No.4 Dilip Jain and applicant No.5 Priti Dongare are concerned, learned counsel for the applicants submits that their presence was at the time of 5th marriage of the victim. Learned counsel for the applicants submits that apart from this, there is no role attributed to the present applicants and they were mere invitees and attendees of these marriage ceremonies.

15. Per contra, learned Additional Public Prosecutor Shri T.A. Mirza for the State submits that if statements of prosecution witnesses Nago and Dagadu are perused, it would clear that role of applicant No.3 Chainlal s/o Kisanlal Patle and applicant No.2 Kiran Samrit is not mere attendance. He submits that from the statements of these two prosecution witnesses it is clear that applicant No.3 Chainlal obtained Rs.60,000/- from one Sanjay and applicant No.2 Kiran obtained Rs.1,10,000 from one Samadhan.

16. Thus, it is crystal clear that these two persons were actively involved in the human trade. Therefore, their application cannot be considered favourably.

17. Consequently, application of applicant No.3 Chainlal s/o

Kisanlal Patle and applicant No.2 Kiran Samrit is required to be rejected.

18. Insofar as other applicants are concerned, even according to the prosecution, they were only present during the marriage ceremonies which were performed against the wish of the victim.

19. Since the charge-sheet is already filed and other applicants are languishing in jail since more than 6 months, I am of the view that they can be released on bail on imposing them certain conditions. That leads me to pass the following order:

ORDER

(a) The criminal application is partly allowed.

(b) Application of applicant No.2 Kiran s/o Shivshankar Samrit and applicant No.3 Chainlal s/o Kisanlal Patle is hereby rejected.

(c) Application of applicant No.1 Chotelal @ Chotu s/o Kisanlal Patle, applicant No.4 Dilip s/o Budharaj Jain, and applicant No.5 Priti d/o Arun Dongare is hereby allowed. They be released on bail in connection with Crime No.184/2017 registered with Police Station Jawaharnagar, Tahsil and District Bhandara for the offences punishable under Sections 363, 366, 366-A, 372,

376(1),(2),(I),(J),(K),(N), 420, 468, and 471 read with Section 34 of the Indian Penal Code and Sections 4, 8, and 12 of the Protection of Children From Sexual Offences Act, 2012 on they executing P.R. Bond in the sum of Rs.1,00,000/- (rupees one lac only) by each of them with two solvent sureties of the like amount by each of them.

(d) Applicant No.4 Dilip s/o Budharaj Jain shall give one local surety.

(e) Learned Judge of the Court below, before whom the bail bonds will be executed, shall ensure and verify the sureties scrupulously.

(f) The applicants shall attend the police station twice a month i.e. on 1st and 3rd Saturdays of each such month and shall be in the police station from 2:00 p.m. to 5:00 p.m., till culmination of the Trial.

(g) It is made clear that the observations made in this order are purely for deciding the application for grant of bail only and learned Judge of the Court below, who shall be trying the case, shall not get influenced by

the observations made in this order.

(h) With this, the criminal application is partly allowed and disposed.

JUDGE

!! BRW !!

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