

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

Cri. BAIL APPLICATION NO. 304 OF 2019

Satyavati Krushna Pillai

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Prabhanjay R. Dave, Advocate, for the Applicant.

Mrs. G. P. Mulekar, APP for the State.

CORAM : PRAKASH D. NAIK, J.

DATE : FEBRUARY 25, 2019.

PC :

1. The applicant is arrested in CR No.88 of 2018 registered with D.B. Marg Police Station for offences u/s 308, 366, 366A, 366B, 368, 370(3), (4), (5), 370A(i)(ii), 371, 372, 373 r/w 34 of Indian Penal Code and Sections 3, 4, 5, 6, 7 and 9 of PITA Act and Section 4, 8, 17 of POCSO Act.

2. The prosecution case is that secret information was received from NGO about prostitution activities being conducted at Dinesh Building, 2nd Floor, Room No.11, Shamrao Vitthal Marg, Grant Road (E), Mumbai. Accordingly with the help of bogus customer and pancha, raid was conducted at the said premises. During the course of raid, 11 women came to be

rescued and the applicant was arrested along with other accused. On completing the investigation, charge sheet has been filed.

3. Learned counsel for applicant submitted that the applicant is falsely implicated in this case. The offences as alleged are not attracted against the applicant. The girls/women found in the premises were indulging in prostitution as per their own wish and hence S.5 of PITA Act and Section 370(3) of IPC would not be applicable in the present case. The applicant had allegedly conducting brothel. It is submitted that Section 370 of IPC is not attracted against applicant as there are no allegations of human trafficking and wrongful confinement against the accused. It is submitted that during the course of investigation, the statements of 11 victim girls were recorded u/s 164 of Cr.P.C. However, nothing is mentioned about forceful prostitution by the said victims in their statements. They have not referred the name of applicant. It is submitted that the applicant was in police custody for sufficient time and at present she is in judicial custody. The investigation is over and the charge sheet is filed. She is permanent resident and having deep roots in society and the question of absconding does not arise. There is no question of any recovery from the applicant and further detention is not necessary.

4. Learned APP submitted that there are four antecedents against the applicant, registered under the PITA Act. Learned APP further submitted that the applicant is involved in serious crime. The raid was conducted pursuant to the information received by Police through NGO. She was immediately arrested. It is submitted that the statements of victim girls were recorded. It is submitted that on medical examination of 3 victims at Grant Medical College, the age of victim "L" was found to be between 18 to 19 years, the age of victim "S" was determined to be 16 to 17 years. The two victims appear to be of minor age. It is further submitted that the birth certificates of the victims also show that two of them were minors. However, the learned advocate for applicant submitted that the documents were produced by the NGO and not recovered during the course of investigation by police. The date of registration of birth of victims "L and M" was reported to be 27/02/2016.

5. Perused the charge sheet. There is no allegation of human trafficking or confinement against her. The victim has not named the applicant in the statement recorded u/s 164 of Cr.P.C. The statements do not show that they were forced to be in the prostitution and they have not named the applicant. It is also pertinent to note that the victim girls who are purportedly minors, were examined initially at Nagpada Hospital and the age of victim "L" was found to be 19 to 20 years and victim "T"

was 18 to 19 years and victim "S" was noted to be of 18 to 19 years. Thus, there is conflict with regards to the date of birth of the said victims. The subsequent certificates indicate that they were between the age of 18 to 19 years, 16 to 17 years and 17 to 18 years. The statements of undisputed major woman does not indicate that they were forced to be in to the prostitution. Statement of victim "L" was recorded on 22-6-2018. The said witness has stated that she is from Bangladesh. She has not named the applicant, however, it is stated that 4 to 5 persons used to visit the brothel and they used to procure customers. The witness has also not stated that she was forced in to prostitution. The statement of victim "T" was also recorded on the same day. She is citizen of Bangladesh. She is married and having one daughter. Before coming to India, she had indulged in prostitution and she crossed the border along with three other unknown girls and came to India. She has referred to woman named Priyanka who had introduced her in to prostitution and forced her to do so. The victim has not named the applicant in her statement. Similarly witness "S" has also given a similar version and referred to the fact that she is Indian citizen and that she needed money and therefore indulged in to prostitution. The said witness has not named the applicant in her statement nor she has stated that she was forced in to prostitution by the applicants. Their statements were also recorded u/s 164 of Cr.P.C. In the said statements also, the victims have not named the applicant nor they have

stated that they were confined at the place of the offence. The investigation is completed and charge sheet has been filed. The Sessions Court had granted bail to two co-accused in pursuance of the order granted by this court in Cri. Bail Application No.2073 of 2018. Taking into consideration the aforesaid circumstances, case for grant of bail is made out.

ORDER

- (i) Criminal Bail Application No.304 of 2019 is allowed.
- (ii) The applicant is directed to be released on bail in connection with CR No.88 of 2018 registered with D.B.Marg Police Station on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend D.B.Marg Police Station once in a month on every first Saturday between 10 and 12 noon till further orders;
- (iv) The applicant shall not tamper with the evidence;
- (v) The applicant shall not visit the place of offence;
- (vi) Criminal Bail Application No.304 of 2019 is disposed off.

(PRAKASH D. NAIK, J.)

.....