

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

BAIL APPLICATION NO.778 OF 2019

Petekhrieu Hutan Pamai

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Sanjiv Sawant I/b. Abhishek P. Deshmukh, Advocate for Applicant.
- Mr. Prashant Jadhav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 20th AUGUST, 2019

P.C. :

1. The applicant is seeking her release on bail in connection with C.R. No.524/2018 registered at Kondwa Police Station, Pune City under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1986 and under Sections 370 and 370(3) of the IPC.

2. The applicant is arrested on 8/9/2018 and since then, she is in custody. The FIR is lodged on 7/9/2018 by WPSI Priya

Tilekar attached to Kondwa Police Station. She has stated in her FIR that the police received secret information that in a massage center at Dorabji Mall, Kondwa prostitution was going on. The information was verified. The police arranged to conduct a raid. Panchas were called. One person was asked to act as bogus customer. He was given Rs.5,000/-. The numbers on the notes were noted. The bogus customer went to the Spa, met the applicant who was present at the counter. She had given information about the charges for prostitution. She had accepted the money and thereafter, the bogus customer went to a room with the victim. Thereafter, he gave the pre-arranged signal. Police party went there, rescued the victim and arrested the present applicant who was present at the cash counter. Since then, the applicant is in custody. The investigation is carried out and the chargesheet is filed. The chargesheet contains the statements of the witnesses and the victims.

3. Heard Mr. Sanjiv Sawant, Ld. Counsel for the Applicant and Mr. Prashant Jadhav, Ld. APP for the State.

4. Mr. Sawant submitted that the offence under Section 4 of the Immoral Traffic (Prevention) Act is punishable with two years. The applicant is already in custody for about a year. The offence under Section 3 and 5 are not made out. He further submitted that offence under Section 370 of IPC is also not made out and therefore, he prayed for release of the applicant on bail.

5. As against these submission, Ld. APP submitted that the victims have clearly named the present applicant. The applicant was found on the spot when the raid was conducted. Her involvement in the offence is more than clear.

6. With the assistance of the Ld. Counsel, I have gone through the entire chargesheet. The chargesheet consists of statements of victims. There are 5 such statements. Three victims are foreigners and two are Indians. All of them have stated that they were employees of this Spa and they had agreed to carry on prostitution. The money which they had earned were divided between the applicant and themselves. Their statements do not

show that they were forced by the present applicant to carry on such act. Thus, from the evidence in the chargesheet, it is clear that these victims were voluntarily carrying on these activities to earn money. The applicant had not used any force. Though Section 4 of Immoral Traffic (Prevention) Act is clearly made out, this section provides punishment upto two years. None of the victims is a minor. There is no concrete evidence to attract Section 3 and 5 of the Immoral Traffic (Prevention) Act. At this stage, Section 370 of IPC is applied but that will be tested during trial. However, considering the fact that the applicant had not used any force and had not detained the victims and since the applicant is in custody for almost a year, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

- (i) The applicant is directed to be released on bail in connection with C.R. No.524/2018 registered at Kondwa Police Station, Pune City, on her executing

P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) The applicant shall attend the concerned police station on every first Friday of every month between 1.00 p.m. to 3.00 p.m. for a period of six months.

(iii) The application is disposed of.

(SARANG V. KOTWAL, J.)