

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 898 OF 2019

Mohammed Ashfaque Mohammed Afak Momin ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

Mr.S.P. Kadam a/w. Mr.S.R. Phanse and Mr.Ravi Kutian for Applicant.
Ms.J.S. Lohokare, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 15th April 2019.

P.C. :

1] The applicant is apprehending arrest in connection with C.R. No.I-352 of 2018 dated 21/10/2018 registered with Bhiwandi City Police Station, District Thane, for the offence punishable under Section 366-A, 376, 370-A, 370(2),(3),(4), 372, 34 of the Indian Penal Code, Section 3, 4, 5 of the Immoral Traffic (Prevention) Act, 1956 (PITA Act) and Section 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2] Heard the learned counsel for the applicant and the learned APP for the State. Perused the chargesheet and record of investigation.

3] It is the prosecution case that, after receipt of confidential

information, that the vocation of prostitution was being conducted at room Nos.20 and 21 situated behind Hindustan Bakery, Hanuman Tekadi, Aara-Bibi Kalyan Road, Bhiwandi, the police after complying with the necessary formalities conducted a raid. Six women were found at the scene of offence indulging into the vocation of prostitution. It is the further prosecution case that, out of the said six women, one girl was below the age of 18 years. After completion of investigation, the police have submitted chargesheet.

4] A perusal of chargesheet would indicate that, it is the prosecution case itself that, the applicant is the owner of the said rooms, wherein the police had conducted raid and found afore-stated six women indulging into vocation of prostitution. It is an admitted fact on record that, the applicant had given his said rooms on rental basis to Ms.Kumari @ Binu Tamang and was getting rent from her for the same. That the applicant was not aware of the fact that, the vocation of prostitution was being conducted at the said place by the tenant. Admittedly, the applicant was not present at the scene of offence. The applicant was neither actively associated in the commission of the said offence nor in the vocation of the said prostitution which was being conducted by the said Ms.Kumari @ Binu Tamang.

5] After perusing the record, this Court is of the *prima-facie* view that the applicant has no direct role to play in the present crime and therefore, his custodial interrogation for further investigation of the present crime is not necessary.

6] In view thereof, the applicant can be protected by pre-arrest bail.

Hence, following order.

- (i) In the event of arrest in C.R. No.I-352 of 2018 dated 21/10/2018 registered with Bhiwandi City Police Station, District Thane, the applicant shall be released on bail on his furnishing PR bond in the sum of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) Applicant shall attend the Investigating Officer as and when called for between 10.00 a.m. to 1.00 p.m., after receipt of a notice in writing from the Investigating Officer and to join the process of investigation till submission of final report.
- (iii) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.
- (iv) Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]