

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

CRIMINAL BAIL APPLICATION NO.1543 OF 2019

Rajiya Jabir Shaikh

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Nitesh Mohite i/b. Jaydeep D. Mane, Advocate for Applicant.
- Ms.S.S. Kaushik, APP for the State/Respondent.
- API Mr.B.H. Patil, Vijapurnaka Police Station, Solapur, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 13th AUGUST, 2019

P.C. :

1. The Applicant is seeking her release on bail in connection with C.R.No.949/18 registered with Sadar Bazar Police Station, Solapur, under sections 370(1), 370 (2) of the Indian Penal Code and under sections 3, 4, 5, 6 of the Immoral Traffic (Prevention) Act, 1956 (for short 'PITA'). The Applicant is arrested on 13/12/2018 and since then she is in custody. The investigation in this case is over and the charge-sheet is already filed.

2. The FIR is lodged by a Lady Police Constable Archana Bhausahab Gawali attached to Prevention of Human Trafficking Cell, Solapur City. She has stated in her FIR that on 13/12/2018 in the afternoon, the police received information that the Applicant was conducting prostitution at Bharatratna Indira Nagar, Solapur, in her house. The police arranged for a bogus customer. He was given Rs.500/-. The number of that currency was noted. Pre-trap Panchanamas were written down. The bogus customer was sent to the Applicant's house and at around 04.30 p.m. pursuant to the pre-arranged signal given by the bogus customer, the police party raided the house. They found the present Applicant in the house. There was one victim, the bogus customer, a housemaid and a visitor lady in the house. The search of the victim and the Applicant showed that they were possessing some money. The Applicant's search showed that she was having the currency note which was given to the bogus customer by the police and number of which was recorded in the pre-trap Panchanama. The Applicant was

arrested. The FIR was lodged. The investigation was carried out. The investigation papers in the charge-sheet mostly contained statements of members of the police party conducting the raid, Panchas who were present during the raid and the bogus customer. Apart from these statements, the statement of the victim is also recorded. In addition to that the statement of the victim u/s 164 of Cr.P.C. is also recorded.

3. Heard learned Counsel Mr.Nitesh Mohite for the Applicant and learned APP Ms.S.S. Kaushik for the State.
4. Learned Counsel Mr.Mohte for the Applicant submitted that the Applicant is falsely implicated. She is made a scape goat. The Applicant was previously implicated in two cases. The Applicant was acquitted in both these cases. He therefore submitted that even in this case, the present Applicant is falsely implicated. He further relied on the statement of the victim recorded by the police themselves. He further submitted that even in her statement, the victim has stated that she was not

forced into prostitution by the Applicant. The Applicant is in custody since December 2018. The investigation is over and her further custody is not necessary.

5. As against these submissions, learned APP referred to the statement of the victim recorded u/s 164 of Cr.P.C., wherein she has stated that she was forced into prostitution by the present Applicant. Learned APP also relied on the fact that there were previous two cases against the present Applicant of the similar nature. She further submitted that the presence of the Applicant cannot be denied at the time of conducting of the raid and the currency note was found in her possession. Therefore she opposed the application of the Applicant for bail.

6. I have considered these submissions. Undoubtedly, the Applicant was found in her house, wherein the bogus customer was also found with the victim. The money paid by the bogus customer was found in the possession of the present Applicant. Thus, at this stage, it cannot be said that the Applicant has no

connection with the raid conducted or that she was not concerned with the victim carrying on prostitution in the Applicant's house.

7. However, the statement of the victim recorded by the police clearly shows that the victim was an adult lady and because of her extreme poverty she had chosen to earn money in this manner. Her statement shows that she herself had made enquiries and had contacted the present Applicant. The victim herself had expressed her desire to earn money and had sought help of the present Applicant. The victim's statement further shows how she was earning money and how the Applicant was giving her fixed amount every day. This statement does show that the victim on her own will and accord had indulged in these activities to earn money. The present Applicant was helping her and keeping major part of her earning. This will definitely fall within the parameteres of section 4 of the PITA. However, the maximum punishment provided is for two years. Paramerters of section 3 are also satisfied. But here again maximum sentence is

not more than 3 years. It is doubtful as to whether section 6 is made out because the victim was not detained by the Applicant. Ingredients of section 370 of IPC are also not made out in this particular case. The investigation is already over and the charge-sheet is filed. The Applicant's further custody will not serve any purpose. Though, there were two similar cases against the present Applicant; in both these cases, the Applicant was acquitted as is evident from the observations made in the order passed by the Court of Sessions, Solapur, while rejecting the Applicant's application for bail. In this view of the matter, I am inclined to grant bail to the present Applicant with some conditions. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.949/18 registered with Sadar Bazar Police Station, Solapur, on her furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station and shall report to a lady police officer nominated by the Senior Inspector of Police of that Police Station, on every Sunday between 03.00 to 04.00 p.m. till conclusion of the trial.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)