

Anand

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

BAIL APPLICATION NO. 3186 OF 2018

Rakesh Juler Roy .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Y. Purwant, Advocate, for the Applicant
Ms Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.06.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 48 of 2017 registered with the Kopar Khairane Police Station, Navi Mumbai, for the alleged offences punishable under Sections 3, 4, 5 of the Immoral Traffic (Prevention) Act r/w 370(1)(3)(4) and 376 of the Indian Penal Code and under Sections 4, 8, 12 & 17 of the Protection of Children from Sexual Offences Act (for short 'POCSO').

3. Perused the papers. On 08.02.2017, the Complainant received information from a secret informer that the Applicant was doing prostitution business at Rajesh Bagat Chawl, Room No. 1, Ground floor, Koliwada, Machhi Market, Bankode Gaon, Navi Mumbai. Pursuant to the said information, two panchas and a decoy customer were arranged and a trap was laid. The raid was effected on 08.0.2017 at 3.00 p. m. and four ladies / girls were found in the said premises allegedly doing prosecution. Three ladies were major and one girl was a minor, aged about 17 years. Pursuant thereto, the aforesaid FIR was registered. One of the victim girls is the wife of the Applicant, two, her friends and the minor girl, is the Applicant's niece. There is nothing in the statement of any of the alleged victim girls to show that any prostitution racket was being run by the Applicant, or that they were doing prostitution. There are no allegations of 376 made by any of the victim girls nor is there anything to show that the rescued girls were being sexually exploited. Infact, according to them, they were eating, when two persons came there, thrust money in Applicant's hand, pursuant to which police arrived

immediately. The Medical report also does not support the prosecution case. Prima facie, it appears that the police without proper verification had acted on a tip off, of a disgruntled person, who had some animosity against the Applicant. It also appears from the statements of the alleged victims, that money was thrust in the Applicant's hand. Learned APP also fairly states that there is no material as against the Applicant to show his complicity in the alleged crime.

4. What is even more disturbing is, that though there was no material to file charge-sheet as against the Applicant, charge-sheet was filed against him. The Applicant is in custody since 2017, despite there being no material as against him. Learned APP informs that the investigation was initially conducted by the crime branch and thereafter, the case was investigated by P. I. Tayade, Kopar Khairane Police Station, Navi Mumbai.

5. Having regard to the peculiar facts and circumstances, the manner in which the Applicant was arrested, investigation was conducted and despite there being no material to charge-sheet the

Applicant, he was charge-sheeted, resulting in him languishing him in jail since February, 2017, the Commissioner, Navi Mumbai to conduct an enquiry as against the concerned officers responsible for the same and take appropriate action against the said officers.

6. Having regard to the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on **cash bail** in the sum of Rs. 15,000/-, for a period of eight weeks;

(ii) The Applicant shall within the said period of eight weeks, furnish P. R. Bond in the sum of Rs. 15,000/- with one or two local sureties in the like amount.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)