

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 47 OF 2020

Mohd Khalid Bapari

son of Abdul Bapari

28 years, married, R/o. C Wing Flat No. 104, Reliable Garden, Juchandra Road, Near Bank of Baroda, Naigaon East, Juchandra, Palghar, Maharashtra – 401 208 and residing at near Don Bosco, E-6, Flat No.1003, Nakshatra Building, Naigaon, East Palghar, Maharashtra and presently in Judicial Custody, at Modern Central Jail, ... Applicant. Colvale, Goa.

Versus

1 State of Goa

Through Public Prosecutor,
Hon'ble High Court of Bombay
at Goa.

2 The Police Inspector,

Crime Branch, Ribandar – ... Respondents
Goa.

Shri K. Raikar, Advocate for the applicant.

Shri Gaurish Nagvenker, Additional Public Prosecutor for the respondent – State.

Coram:- NUTAN D. SARDESSAI, J.

Date :- 3rd March, 2020

ORDER:

The applicant seeks his release on bail by his application invoking the jurisdiction of this Court under Section 439 CrPC,1973.

2. Heard Shri K. Raikar, learned Advocate on behalf of the applicant who contended that the applicant was charged for the commission of the offences punishable under Section 370(3) IPC and sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act,1956 r/w Section 34 IPC. He was placed under arrest on 11/11/2019 and after an initial 2 days remand to police custody he was then remanded to judicial custody where he was continuing till date. His bail application came to be rejected by the Court of the Additional Sessions Judge, Panaji on 26/11/2019. A bail

application was moved before this Court which however came to be withdrawn on 20/12/2019 and subsequently, the chargesheet came to be filed on 03/01/2020. Since, there was a change in circumstance he moved a bail application before the learned Additional Sessions Judge, Panaji which came to be dismissed on 15/01/2020. Three victims had been rescued in the said Crime but there was no reference made by the two of them to the applicant. The third victim made a reference to the applicant but there was no indication that the applicant was living on her earnings. No nexus too was established between the applicant and the third victim and at the highest the offence attracted was under Section 370A IPC. The applicant also did not have any criminal antecedents and hence on all these grounds he was entitled to the benefit of bail.

3. Shri Gaurish Nagvenker, learned Additional Public Prosecutor submitted that the applicant had used the third victim for the prostitution which was apparent after the conduct of the raid on the spot on 11/11/2019 at Pernem.

Prima facie, the involvement of the applicant was writ large and at this stage it was sufficient to proceed on the basis of the chargesheet to hold the offences against the applicant. The details of the criminal antecedents of the applicant were not available despite an attempt by the police to get his whereabouts which were traced to an address in Thane, Mumbai. The applicant was running an organised sex racket by forcing innocent girls in the prostitution and arranging the victim girls from out of the State of Goa and therefore, looking to the seriousness and gravity of the offence under Section 370(3) IPC, in particular, he was not entitled to the benefit of bail.

4. i have heard the submissions of the learned Advocate and the learned Additional Public Prosecutor on behalf of the State. There was no dispute that the applicant was placed under arrest for the alleged commission of the offences punishable under Section 370(3) IPC amongst others which is punishable with imprisonment of not less than 10 years which can extend to imprisonment for life and also liable to

fine. It requires that for the purpose of exploitation either any person by use of threat, force or any other form of coercion or abduction or by practising fraud or deception or abuse of power or by inducement is involved in the trafficking of more than one persons it would attract the offence under Section 370(3) IPC. From the tenor of the statements of the victim girls which are produced on record, not doubt two of the victim girls have not made a direct reference to the applicant but which in my estimation would not absolve him of the charge laid against him which is very serious in nature. The third victim in particular had made a pointed reference to the applicant as having brought her to Goa from out of the State and to involve her in the prostitution activities. It is also borne out from the statement that money used to be collected from her after she prostituted herself for money and that she was caught during the raid conducted by the police.

5. At this prima facie stage what is important is the involvement of the applicant in the Crime as borne out from

the statements and the chargesheet filed against the applicant. The gravity and seriousness of the offence under Section 370(3) IPC cannot at all be undermined and therefore, i do not find any merit in the application. The applicant is not at all entitled to the benefit of bail even assuming at the highest that he has no criminal antecedents. In the circumstances, therefore the application is found devoid of merits and is accordingly dismissed.

NUTAN D. SARDESSAI, J.