

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1153 OF 2020**

Sarang Todkar .. Applicant
versus
The State of Maharashtra .. Respondent
...

Sr.Counsel Mr. Ashok Mundargi a/w Mr. Sandeep Salunkhe for
the applicant.

Mr. P.H.Gaikwad, APP for the State.

**CORAM: SMT. BHARATI DANGRE, J.
DATED : 10TH DECEMBER, 2020**

P.C:-

1. The applicant is seeking his release on bail in connection with C.R.No.740 of 2020 registered with Shikhrapur Police Station, thereby invoking Sections 370(2), 370(3) of Indian Penal Code and Section 3,4,5,7 and 8 of Immoral Trafficking (Prevention) Act, 1956. The CR is registered on a complaint of the Police Constable attached to Daund Police Station who reported that since information was received that immoral trafficking is being indulged in two places being Royal Lodge and Sanjeevan Lodge, trap was laid. The Police personnel accompanied with dummy customer conducted raid at Royal Lodge as well as Sanjeevan Lodge. The applicant is not concerned with the raid conducted in Royal Lodge. His

accusations are in respect of raid conducted in Sanjeevan Lodge. When the dummy customers were sent to the said Lodge in form of a trap, one man and one woman was found in the said Lodge. The person gave his name as Mulani Hanif Balabhai. He informed that the Lodge belongs to one Sarang Subhash Todkar i.e. the present applicant. He also stated that at the said place women are subjected to flesh trade and whenever there are customers, after obtaining money from them, they are made to indulge into sexual intercourse with them. He also state that the amount is divided between the woman and the Lodge owner Subhash Todkar. The woman aged 31 years, present at the time of raid, was also interrogated and she is alleged to have stated that she is encouraged by Mulani Hanif and the present applicant to indulge into flesh trade. She also state that whatever money is received by her, gets distributed between herself and Mulani and the applicant. When physical search of Mulani was taken, two notes of Rs.500/- came to be recovered and two packets of condom came to be seized from the counter. It is in the backdrop of these allegations, the applicant came to be arrested.

2. The submission of the Learned Counsel Mr.Mundargi is to the effect that the applicant is not the owner of the Sanjeevan lodge and in fact, the said property stand in the name of his mother who has executed a Rent Agreement with Mr. Mulani on 23/10/2020 wherein it is agreed that Mr.

Mulani will pay rent of Rs.10,000/- per month. He has placed on record the said agreement. The submission of the Learned Counsel is that the applicant or his mother are not aware of the purpose for which, the premises are being put to use since at the time of executing the agreement, it was agreed that it would be used for the business purpose i.e. for running a lodging and boarding in the name of Hotel Sanjeevan and all the necessary permission required would be obtained. By clause No.(vii), the tenant also agreed that apart from the said activity of lodging, no other illegal activity would be carried out in the said premises.

3. The Learned APP has placed on record the statements recorded under Section 164 during the course of investigation and this include the statement of one Shehnaz Shaikh whose name has been included in the complaint as the woman who was found in Sanjeevan Lodge and who has been alleged to be indulging in prostitution. The statement of the lady recorded on 08/12/2020, however, gives completely a different version. She do not implicate the applicant and on the other hand, she state that she received a phone call from a person who called her to Shikrapur when she came to Shikrapur, she was asked to accompany him to a lodge. The person told her to wait and he left the room. Thereafter, one person having a mobile in his hand came and she state that the said person was a police personnel. She state that she was not

aware why she was called there and further state that no physical relationship was established by her in the said Lodge.

4. The said statement recorded under Section 164 of the Cr.P.C., lead to some extent fortifies the submission advanced by the Learned Senior Counsel that the entire FIR is dubious and in fact, entire incident in light of the discrepancy in the timings mentioned in the FIR and posing the possibility of conducting raid in the two Lodges simultaneously appears to be untrustworthy. In any contingency, the said opinion is only prima facie based on only reading complaint and the statement of Shahnaz Shaikh recorded before the Magistrate. The applicant, in any case, cannot be charged with the offences under Section 370 as well as the offence under PITA as it is the tenant of the said premises with whom the agreement was executed by the mother of the applicant and there is no material collected by the prosecution to lead to an inference that the applicant had knowledge that the premises were being used for the purposes of immoral trafficking. In such circumstance, in light of the prima facie observations above, the applicant is entitled to be released on bail. Hence, the following order;

ORDER

- (a) Application is allowed.
- (b) The applicant – Sarang Todkar, shall be released on bail, in C.R.No.740 of 2020 registered with Shikrapur Police Station,

on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(d) The applicant shall co-operate with the investigation and attend the Police Station as and when required by the Investigating Officer.

SMT. BHARATI DANGRE, J