IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1589 OF 2019
WITH
INTERIM APPLICATION NO. 1 OF 2020

Anthony Gabriel Machado .. Applicant
Vs.
State of Maharashtra and Anr. .. Respondents

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Mr.Sujit Shelar a/w. Ajit Dadwal i/b. APS Law Association, Advocate for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent – State.

PI-Arvind Pawar, Anti -Extortion Cell, Crime Branch, Mumbai.

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CORAM : PRAKASH D. NAIK, J.

DATED : MARCH 13, 2020.

P.C. :

Applicant is seeking anticipatory bail in connection with C.R.No. 68 of 2018 investigated by Anti Extortion Cell, DCB CID, Mumbai, (originally registered at C.R.No. 479 of 2018 with Nagpada Police Station), for the offences punishable under Sections 387, 420 and 370(1) read with Section 34 of Indian Penal Code (“IPC”, for short) and under Sections 4, 5 and 6 of Prevention of Immoral Trafficking (Prevention) Act (“PITA Act”, for short). The First Information Report (“FIR”, for short) was lodged on 26th October, 2018.

2 The case of the prosecution is as follows:

(a) It is alleged that the complainant was acquainted with Mr.Kamal Shaikh. Mr.Kamal informed him that he is business of sending Indian women abroad for employment. In June 2018, women from complainant's village. Smt.Maina told him that, her daughter Laxmi aged 24 years needs job. The complainant met Laxmi. She told him that 3 to 4 times she had gone abroad for work as housemaid. If she gets similar work, she is willing to accept it. The complainant told this to Kamal. He said that his friend Salim who conducts hotel at Bahrain would be coming to India.

(b) In July 2018, Kamal called Laxmi with documents. The complainant, Laxmi, her sister Arti went to Arabia Hotel at Nagpada. They met Kamal, Salim and Tinku. They took information from Laxmi and Salim stated that Laxmi would be employed in his hotel as Bahrain. He agreed to pay Rs.1,50,000/-. Kamal was told to collect her passport and apply for VISA. Tinku collected passport, photograph and other documents from Laxmi. Rs.20,000/-, were paid to Laxmi on instructions from Kamal.

(c) On 13th July, 2018 Laxmi went to Bahrain. After few days, mother of Laxmi informed to the complainant that Rs.1,00,000/- is deposited in her account. In second week of October, 2018, mother of Laxmi called the complainant and informed him that without engaging Laxmi in kitchen work, she is compelled to indulge in prostitution by Salim and manager Anthony and Naseer. The complainant thereafter met Kamal and told him to call back Laxmi in India. He demanded money and threatened that she would be killed. Complainant gave Rs.2,00,000/-, to Kamal on 16th October, 2018. On 22nd October, 2018, Salim decided to send Laxmi to India on instructions of Kamal. Laxmi came to India on 23rd October, 2018. She went to Rajasthan. She told the complainant on phone that she was compelled to indulge in prostitution. She was threatened. Passport was taken by Salim. She was struck in Bahrain. 10 to 12 ladies are also held up at Bahrain.

3 During the course of investigation search of the residential premises of the applicant was conducted and information was collected by police. Applicant learnt that Lookout notice was issued against him and charge – sheet has been filed against the co-accused. The applicant preferred an application for

anticipatory bail before the Sessions Court, which has been rejected.

4 Learned advocate for the applicant submitted that the applicant is not involved in any offence. The role of offences is attributed to other accused. Applicant was the employee of Sahara Hotel. He was appointed as Restaurant Manager at Kingdom of Bahrain. The applicant relies upon the appointment letter and the pay slip. It is submitted that the statement of the victim recorded during the course of investigation do not attribute any overt-act to applicant of having subjected her to the prostitution activities. The only averement against the applicant alleged in her statement is that the applicant used to trouble her. It is submitted that the needs to travel to Bahrain as his Visa is getting expired on 11th April, 2020. Applicant voluntarily came to India and had applied for anticipatory bail before the Sessions Court. Applicant has roots in Mumbai. His family is residing at Mumbai. The applicant had tendered additional affidavit dated 13th March, 2020. In the said affidavit, he has furnished the details about his residential address and details of his family members. His children are staying at Mumbai. The affidavit is taken on record. Applicant/s have no criminal antecedents.

5 Learned APP submitted that the complainant has narrated the harassment caused to the victim. The complainant has stated that the co-accused as well as the applicant had induced the victim to indulge in prostitution activities. It is submitted that the statements of other witnesses are recorded, however, in fairness it is submitted that those witnesses have nto attributed any overtact to the applicant alleging that he was responsible for harassment to them.

6 FIR is lodged on 21st October, 2018. Applicant is employed in Sahara Hospital as Restaurant Manager. Three co-accused were arrested and they are in custody. The victim has not alleged that the applicant was instrumental in inducing/forcing her into prosecution. The complainant had narrated the incidents allegedly told to him by victim. However, victim has not alleged that applicant had forced her into prostitution. Other victims have not attributed any role to the applicant. Although the applicant was employed abroad, after realizing that Lookout notice has been issued against him, he come to India and applied for anticipatory bail. He has furnished details by filing affidavit about the place of residence at Mumbai and his family members. Learned APP, however, contended that the applicant should be

available for trial and presence is required at the time of filing charge–sheet. Learned counsel for the applicant submits that the applicant would remain present before the Court on intimation being given to him about the date of filing charge–sheet. He would provide his contact number to the investigating officer. Thus, there is no impediment in allowing application for anticipatory bail and permitting him to travel to Bahrain.

7 In the light of the aforesaid circumstances, application can be granted on certain terms.

:: O R D E R ::

(i) Anticipatory Bail Application No.1589 of 2019, is allowed;

(ii) In the event of arrest of Applicant in connection with C.R.No.68 of 2018 (originally registered at C.R.No.479 of 2018 with Nagpada Police Station), he be released on bail on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

(iii) Applicant shall attend DCB CID Anti Extortion Cell, once in three months on first Saturday of first month between 11:00 a.m. to 01:00 p.m., till further orders;

(iv) Applicant shall remain present on the date of fling of charge–sheet before trial Court on intimation being given to him;

(v) After filing of charges–sheet, applicant shall attend trial Court proceedings, unless exempted by Court;

(vi) Anticipatory Bail Application and Interim Application both stand disposed of accordingly;

(vii) The Passport of the applicant be returned to him immediately to enable him to traval to Bahrain.

(PRAKASH D. NAIK, J.)