

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (ABA) NO. 739 OF 2020

(Varsha w/o Uttam Ramteke ..vs.. State of Maharashtra, through PSO, PS Sitabuldi, Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P.D. Sharma, Counsel for the applicant,
Mrs. Kalyani Deshpande, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 08-12-2020

Heard.

2. The applicant is apprehending arrest in Crime 450/2020 registered with the Sitabuldi Police Station, Nagpur for offences punishable under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956 ('Act' for short).

3. The crime is registered on the basis of report dated 29-10-2020 lodged by Police Constable Mr. Anil Ambade.

4. The informant is attached to the Social Security Wing, Crime Branch, Nagpur City. The Police Inspector Mrs. Trupti Sonwane received secret information that the applicant, who also goes by the alias Anjali Shah and her partner in crime Rajat Thakur are running a brothel by inducing women to indulge in prostitution. Two decoy

customers were asked to call the applicant and Rajat Thakur on mobile. Contact was established with the applicant Varsha Ramteke @ Anjali Shah on her mobile. She called the decoy customers to Shivgaurav Apartment 103, Towari Market, Traffic Park, Dharampeth, Nagpur, assuring the availability of women. The information was conveyed to the D.C.P. (Crime) who directed a raid. Alongwith two panchas and the two decoy customers the raiding squad proceeded to the apartment. While the decoy customers knocked on the door of the apartment, the police staff and the panchas waited at a distance of 100 meters. The decoy customers were asked to give a missed call as a signal to the raiding party. On receiving the signal, the raiding squad entered the apartment. Two girls were sitting in the hall and one was at the counter. In the adjoining room, one decoy customer and woman were found on the bed. The woman was handed over to the lady police constable. The woman at the counter disclosed her name as Varsha Ramteke @ Anjali Shah (the applicant). The three girls who were in the apartment disclosed that they are engaged in spa and massage work and came in contact with the applicant and Rajat Thakur. The girls disclosed that the applicant and Rajat Thakur promised extra money and persuaded them to indulge in sexual intercourse with the customers. The girls further disclosed that they were summoned by the applicant who conveyed that they would be paid extra if they indulged in sex with the

customers. The money paid by the decoy customers is recovered from the counter.

5. The learned Counsel for the applicant submits that on the face of the contents of the report, no offence is made out. It is submitted that acts alleged do not confirm to the definition of “prostitution” in section 2(f) of the Act. It is then submitted that the provisions of Sections 3, 4, 5 and 7 of the Act are not attracted. Reliance is placed on the decision of a learned Single Judge in *Kajal Mukesh Singh and Others .v. State of Maharashtra (through the Inspector-in-charge of Malad Police Station), 2020 SCC OnLine Bom 954* and in particular paragraph 27 thereof.

6. The submission is noted only for rejection. Sexual exploitation would include inducing a girl or even encouraging a girl to indulge in sexual intercourse with a stranger, by promising rich financial reward. The submission that the definition clause is not attracted merits outright rejection. Section 3 of the Act punishes a person for keeping a brothel or allowing premises to be used as a brothel. Brothel is defined, and the definition is inclusive, in Section 2(a) as follows :

“2(a) “brothel” includes any house, room (conveyance) or place or any portion of any house, room (conveyance) or place, which is used for purposes (of sexual exploitation or abuse) for the gain and another person or for the mutual gain of

two or more prostitutes.”

7. Considering the contents of the report, there cannot be even an iota of doubt, that *prima facie* the premises is a brothel. Section 4 of the Act punishes a person who lives on the earnings of prostitution. It is apparent from the contents of the report that the money paid by the decoy customer was to be shared and *prima facie*, Section 4 comes into play. Section 5 of the Act again speaks of inducement and the report clearly makes out a case of inducement. Section 7 of the Act again punishes prostitution in or in the vicinity of public places. Whether the said provision is applicable would depend on the facts which come on record. However, it cannot be said that the report does not make out a case for attracting the provisions of the Act.

8. The reliance placed on the decision of the learned Single Judge in *kajal Mukesh Singh and Others .v. State of Maharashtra (through the Inspector-in-charge of Malad Police Station)*, is entirely misplaced. Be it noted, that in paragraph 27, on which the learned Counsel heavily relies, the learned Single Judge observes that there is nothing on record to show that the petitioners were seducing any person for the purpose of prostitution or that they were running a brothel. Moreover, the learned Single Judge was not considering an application for pre-arrest protection and presumably had the benefit

of perusing the entire material gathered in the investigation when he exercised jurisdiction under Section 482 of the Code of Criminal Procedure to quash and set aside an order passed under Section 17 of the Act.

9. There is more than ample material on record to connect the applicant with the alleged crime.

10. No case is made out for exercise of discretion.

11. The application is dismissed.

JUDGE

adgokar