

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

CRIMINAL BAIL APPLICATION NO. 1188 OF 2021

Maresh Ramesh Thite	 Applicant
Versus	
The State of Maharashtra	 Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 1194 OF 2021**

Shama Ibrahim Shaikh	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Ritesh Thobde for Applicants in both ABAs.
Smt. A. A. Takalkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th MARCH, 2021

P.C. :

1. In both these applications, today this common order is passed because they arise out of the same offence and the same investigation. For the sake of convenience, both the applicants are referred to by their names.
2. The Applicants are seeking their release on bail in connection with C.R.No. 727 of 2020 registered with Solapur

Taluka police station, on 29/11/2020, under sections 3, 4, 5 and 6 of The Immoral Traffic (Prevention) Act, 1956 and under sections 370(1), (2) and (3) of the Indian Penal Code (for short 'IPC').

3. Heard Shri. Ritesh Thobde, learned counsel for the applicants and Smt. Takalkar, learned APP for the State.

4. The First Information Report (for short 'F.I.R.') was lodged by Shri. Salunkhe, P. I. He was attached to Prevention of Immoral Traffic Branch at Solapur. He has stated that, on 28/11/2020, at about 4:30p.m. the informant and others received a secret information that prostitution was going on in Viraj Hotel, situated at Solapur-Tuljapur highway. The police arranged to conduct raid. Two panchas including one lady panch and one bogus customer were called. The bogus customer was given six currency notes of Rs.500/- each. He was asked to give prearranged signal. Raiding party went to said hotel at around 5:00p.m. The bogus customer gave prearranged signal by giving a missed call. Then the raiding party entered the hotel and conducted raid. The victim was found with the bogus customer. There was one person Nitin Dhone present in the hotel with whom currency notes

arranged by the investigating agency were found. The present applicant Mahesh was also present in the hotel, who was owner of that hotel. Both of them were arrested and the F.I.R. was lodged. Applicant Shama was arrested subsequently on 19/01/2021. The charge-sheet in this case was filed against both the applicants. The investigation is already over.

5. Learned counsel for the applicants submitted that, nature of evidence against the present applicants is very weak. The victim has given three contrary versions and on each of these occasions, she has blamed different persons, therefore, only based on versions of this unreliable witness, the applicants should not be denied bail.

6. Learned APP pointed out that, in the statement given by the victim the applicant Mahesh's role is clearly spelt out. Similarly, in the supplementary statement recorded on the next date she has given a phone number and reference to a lady who used to control the activities using that phone. It is the prosecution case that the said phone number was belonging to the present applicant Shama.

7. I have considered these submissions and, in particular, I have perused the statements given by the victim. With the assistance of both learned counsel I have also perused the charge-sheet. Besides, victim's statements and CDR there are statements of raiding party members describing the manner in which raid was conducted, which is basically similar to the narration in the F.I.R. The victim's statements were recorded on 28/11/2020 and 29/11/2020. Besides that, there is a reference to her version which is reflected in the F.I.R. As per the F.I.R. she has clearly stated that, she on her own had come to Viraj Hotel for prostitution. Accused Nitin used to pay her Rs.300/- per customer. She was to take back that money from Nitin while going back to her house in a different city. According to her, expenditure for her food was looked after by Nitin.

8. Significantly, the amount given to the bogus customer in the form of currency notes was actually found with this Nitin, therefore, her version is substantiated by the events noted in the F.I.R. The statement of this victim was recorded on 28/11/2020. Here she has changed her version and she has stated that the

applicant Mahesh was paying her Rs.300/- per customer and that he had made arrangements for her stay and for her food. Thus, in this statement she has given main role to the present applicant Mahesh. Her another statement was recorded on 29/11/2020 and this time, there is no reference of either Mahesh or Nitin. Instead, she has referred to a lady who was controlling her activities through a telephone number. According to the prosecution case, that number is belonging to present applicant Shama. All these versions are contrary to each other. The version in the F.I.R. appears to be more probable because money was found with Nitin. Otherwise, all these three versions cannot stand together and only one of them can be true, as only one of these three persons i.e. applicant Mahesh, applicant Shama or Nitin would be the main offender who was controlling such activities. Therefore, sufficient doubt is created about participation of both present applicants. However, it must also be noted that there is sufficient evidence to show that the applicant Mahesh's hotel was actually used for these activities and to that extent his connection with the offence cannot be ignored. Therefore, applicant Mahesh cannot be termed as

innocent person. But for allowing his hotel to be used for such activities, he is already in jail since 29/11/2020.

9. Learned APP has submitted that, Mahesh has one more antecedent against him in respect of offence committed in the year 2016. Therefore, though I am inclined to grant bail to this applicant, I am also imposing conditions. So far as applicant Shama is concerned, her name is not mentioned either in the F.I.R. or in the first statement of the victim which was recorded on 28/11/2020. Therefore, against her also nature of evidence is weak, though her telephone number is connected in the crime. The applicant Shama is a lady and she is in custody since 19/01/2021. Therefore, I am inclined to grant bail to this applicant also, considering the contrary nature of evidence in the prosecution story.

10. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 727 of 2020 registered with Solapur Taluka police station, the applicants are directed to be released on bail on

their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

- (ii) The Applicant Mahesh shall report to the concerned Police Station once in every week for a period of one year from today.
- (iii) Both applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)