

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

BAIL APPLICATION NO. 2332 OF 2021

Shabana Sattar Shaikh
Hinakousar Moulali Shaikh ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr. Sagar Tambe i/b. Mr. Ritesh Thobde for the Applicants.
Mr. Ameet Palkar, APP for the Respondent -State.
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CORAM : V.G.BISHT, J.
RESERVED ON : 29TH NOVEMBER, 2021
PRONOUNCED ON : 14TH DECEMBER, 2021

PC:-

1. The present application has been moved by the applicants under Section 439 of the Code of Criminal Procedure in Crime No. 86 of 2021 registered with M.I.D.C. Police Station, Solapur City for the offences punishable under Section 370 -A (2) of the Indian Penal Code (for short, “the IPC”) and Sections 3,4,5 and 6 of the Immoral Traffic (Prevention) Act, 1956 (for short, “the said Act”).

2. The prosecution case in short is that, on 11th February, 2021, informant received a secret information about a brothel being run at plot No. 3, Kumtha Naka, Hudako Colony. Accordingly, raid was laid. The applicants were found running a brothel along with two victims. Accordingly, offence came to be registered.

3. Mr. Tambe, learned Counsel for the applicants, submits that Section 6 of the said Act cannot be applied or attracted as it is not the case of prosecution that any of the victim was detained at any point of time by the applicants. Learned counsel then invited my attention to the statements of victims, which are at page Nos. 41 and 42 of the application. Even otherwise, as the investigation is completed and the charge-sheet has been filed, the continued custody of the applicants is not necessary. In such circumstances, the applicants deserve to be enlarged on bail.

4. Mr. Palkar, learned APP, on the other hand, opposes the submissions by contending that having regard to the seriousness of offence, the application is liable to be rejected.

5. Perused investigation papers. I have also gone through the statements of victims, which are at page Nos. 41 and 42. The statement of first victim at page No. 41 shows that she on her own had agreed to engage herself in the prostitution. Her statement nowhere shows that either she was detained or compelled by applicants. Similar is the statement of another victim at page no. 42.

6. Thus, there is no *prima facie* evidence to suggest that either of the victims was either detained by the applicants or the applicants used these two victims as a source of earning by keeping them in a brothel.

7. Additionally, the investigation is over and the charge-sheet has been filed. Thus, there is no necessity of keeping

the applicants behind the bars. In view of above, the applicants deserve to be enlarged on bail. Hence, the following order :

ORDER

(i) Applicants-Shabana Sattar Shaikh and Hinakousar Moulali Shaikh shall be released on bail in C.R. No. 86 of 2021 registered with M.I.D.C. Police Station, Solapur, City on their executing P.R. Bond in the sum of Rs. 25,000/- each with one or two surety/ sureties in like amount.

(ii) The applicants shall not indulge into any similar activities.

(iii) The applicants shall attend the trial court proceedings regularly.

(iv) Bail before the trial Court.

(v) It is made clear that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merit, in accordance

with law, uninfluenced by the observations made in this order.

(vi) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(vii) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)