

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.165 OF 2021

Sneha Das D/o Ravi Das and ors	.. Applicants
Versus	
The State of Maharashtra	.. Respondent

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Mr. Dhairysheel Nalawade i/b Sonal H. Mishal for the applicants.
Mr.A.R. Kapadnis, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 11th AUGUST, 2021

P.C:-

1 The three applicants, all residents of Kolkatta, West Bengal, presently incarcerated in Thane Central Jail in connection with C.R.No. 392 of 2019 seek their release on bail. They are charge-sheeted in the said C.R registered with Kharghar Police Station which invoke Section 419, 420, 384, 465, 471 read with Section 34 of the I.P.C and Section 66(C) and 66(D) of the Information Technology Act. They came to be arrested on 29th November 2019.

2 Learned Advocate Dhairyasheel Nalawade submit that the prosecution story is completely unbelievable and on

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reading the complaint, the only thing that can be argued is that no man of common prudence would enter into the transaction, involving the huge amount in the manner which the complaint is narrated, and in fact, his desire to establish intimate friendship with young girls is responsible for he being victimized. Moreover, the submission is, the applicants have no role to play in the entire episode.

3 An FIR came to be lodged by the complainant, aged 60 years, who state that he had retired from service in the year 2014, and thereafter, he is engaged himself into a private business. It is alleged by him that on 15th September 2018, he received a phone call from one number and the woman introduced herself to be one Jyoti who narrated that she was calling from Locanto Dating Company which arrange for dating friendship service for chatting with various beautiful women and if he is interested, registration fee of Rs.3,000/- will have to be deposited. The photo and mobile number of the women candidates would be forwarded on registration was the assurance. On registration, the complainant was informed that, to have access to profiles of the women available for chatting, he will have to possess an identity card for which an amount of Rs.43,600/- will have to be deposited, which is a refundable amount. Accordingly, he transferred the said amount in the name of one Sariful Islam. Thereafter, from time to time, he received phone calls and he

deposited an amount of Rs.8 lakhs.

.. As per the complaint, thereafter, he received a call from one number and the person on the other side informed that he was calling from Shivaji Nagar Crime Branch and since dating is an offence, he is liable to be arrested on his act being disclosed and therefore, he should continue to deposit an amount as directed by the officials of Locanto Company and on these instructions, he kept on depositing the amount at times by borrowing money. For the period commencing from 15-9-2018 to 15-1-2019, complainant deposited total amount of Rs.73,51,842/-. After a gap of almost 10 months, he lodged the subject FIR, to be precise on 5th November 2019. He gave the name of the persons and the mobile numbers which included one Jyoti, one person from Crime branch, one Ishika Sharma, one Mahi Chaudhary, Sonam and one Devashish. Since he realized that he was duped of the said amount, he lodged a complaint against Locanto Dating Zone Co, and the persons working with the said Company.

After more than a month, i.e. 10th December 2019, a supplementary statement of the complainant was recorded, when he was informed that on investigation, three accused persons came to be arrested from Kolkatta and the mobile number from which he received the phone calls belong to Sneha @ Mahi Ravidas – applicant no.1. Similarly, the other persons were

identified by him as Prabir Saha – applicant no.2, who made phone calls as Ishika and Devashish from Crime Branch, and alleged that the said person is transgender. The applicant no.3 is alleged to be working as an Administrator, responsible for managing the transactions.

4 During the course of investigation, the statement of several witnesses were recorded who were working as Tele-caller with R. Enterprises came to be recorded. The witness state that a fictitious name was allotted to them and the in-charge of the said office was the applicant no.1 and applicant no.3 was working as Admin, whereas applicant no.2 was working as Senior telecaller. There were around 15 to 20 girls who were engaged as telecaller by the Dating Service Company and they were provided a script of the talk in which the customer has to be engaged. The list of customers with their mobile numbers is alleged to have been provided by the applicant no.3. They were instructed to call the customers by informing that they were calling from Locanto Dating Services which provide service for dating and establishing physical relationship and that the Company would arrange for girls who would render the service, wherever desired. Registration fee was also stipulated and one bank account was given which was to be provided to the customers. The girls engaged as tele-caller in sync state that after filling up the customer form, the present applicants used to establish contact

with the customer and the tele-callers were entitled for commission. The mobile phone was supplied by the Company, is their version.

.. The investigation reveal an entire racket being operated on the pretext of dating site, providing beautiful girls for dating on payment of reliable fees. The investigation, however, reveal that the entire amount has been transferred in one account and no money has come in the account of the applicants. There is no transfer of any money from the bank accounts of the complainant to the account of the present applicants, which reflect that they are not the beneficiaries of the amount which was parted by the complainant. The applicants were engaged in the office with Locanto Zone Co., Kolkatta and were receiving salaries, as is reflected from the Company audit. The real kingpins of the entire episode is the Company and those who run it, and the present applicants are merely salaried employees. The applicants do not have any criminal antecedents and those who run the dating Company are not arrested.

.. On perusal of the statement of account of the complainant, the amount has been transferred to one Sariful and accused persons who were running the said dating site, being Islam Izrur Kazi, John Halder, Amisha Shaw are still absconding and cannot be traced. The investigation qua the applicants is

complete and charge-sheet is filed. They have been arrested on 29th November 2019 and till date, the charge is not framed.

5 Taking an overall view of the circumstances compiled in the charge-sheet, where the applicants are similarly situated as several witnesses whose statements are recorded and compiled in the charge-sheet, who were engaged by the Dating Company to induce the customers for dating and worked at the instance of the company and they were entitled for some commission, the applicant cannot remain incarcerated any more. Their fate will be ultimately determined in the trial, when the main accused are tried. They are entitled to be released on bail subject to the following stipulations.

ORDER

- (a) The Applicant no.1 Sneha Das, applicant no.2 Prabirsaha and applicant no.3 Arnab Singh shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.
- (b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade them from disclosing the facts to Court

or any Police Officer. The Applicants should not tamper with evidence.

- (c) Since the applicants are residents of Kolkatta, they shall mark their attendance in New Town Police Station, West Bengal on first Monday of every month between 10 am to 1.00 p.m and the Police Officer with whom they mark their presence shall transmit the quarterly report to the Investigating Officer of Kharghar police station and also inform about any default in attending the police station on more than two consecutive dates.
- (d) The applicants shall mark their attendance in Kharghar police station once in every three months so as to ensure their availability for trial
- (e) The applicants shall inform the Investigating Officer at Kharghar police station about their residential address and the contact number and also keep him intimated about the change in the same from time to time.

The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J