

NSC.

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

CRIMINAL BAIL APPLICATION NO.496 OF 2021

Sanjay Gulzari Singh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ashok M. Bhatia, for the Applicant.

Ms. S. V. Sonawane, A.P.P for the Respondent – State.

Sr. P.I – Sandip S. Kadam, Mira Road Police Station, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 10th MARCH, 2021

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant. By this application, the applicant seeks his enlargement on bail in connection with CR. No.I-157 of 2016 registered with the Mira Road Police Station, Thane Rural, for the alleged offences punishable under Sections 372, 373, 376 r/w 34 of the Indian Penal Code; under Sections 4, 5, 6 and 8 of the Immoral Traffic (Prevention) Act, 1956 (PITA Act) and under Sections 4 and 8 of Protection of Children from Sexual Offences

Act.

3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the aforesaid case. He submits that a perusal of the statements of the complainant and another victim girl recorded under Section 161 of the Code of Criminal Procedure shows that the said statements are in variance with the statements of the said witnesses recorded under Section 164 Cr. P.C. He submits that in the 164 statement, there are no allegations against the applicant that he lured the victim girls into prostitution. He submits that instead one of the victim girl has stated that she was asked to do household work in the applicant's house. He submits that the applicant has no antecedents and that the applicant is in custody since 22nd July, 2016 i.e. for more than 4 years with no prospect of the trial concluding soon. He submits that infact, till date the victim girls have not been traced by the police, despite witness summons having been issued to them.

4. Learned APP opposed the application.

5. Perused the papers. According to the victim girl (complainant), aged 16 years, sometime in March 2016 when she had gone to the market

along with her friend, aged 19 years, they met her sister-in-law (Shakuntala's) mother i.e. Nehta Singh along with another lady and man. She has stated that the names of the said persons were Jitu Singh and Gudiya Singh and that they were husband and wife. She has stated that as Jitu Singh told them that if they go to Mumbai and work in a Dance Bar, they would earn money, they accompanied Jitu Singh to Mumbai. The complainant/victim girl has stated that as the financial condition of her family was weak, she fell into the trap and agreed to accompany Jitu Singh and Gudiya Singh. She has stated that Jitu Singh and Gudiya took them to Agra where they were introduced to one Pinky Singh. She has stated that thereafter, Jitu Singh brought them to Mumbai i.e. Mira Road, where they were introduced to the applicant and his mother – Saroj Singh. She has stated that the applicant's mother disclosed to them that they had purchased them for prostitution and that they would be sent to different customers. She has stated that after a few days, her friend, another victim girl was taken to Kolkata and that she was taken by the applicant's mother to Agra and that after reaching Agra, co-accused – Saroj Singh (applicant's mother) and Pinky Singh sent her for prostitution to different places in Ferozabad. She has stated that sometime in April she came back to Mira Road and she was sent for prostitution to different people. She has stated that being fed up of the life, led by her, she approached the police station, pursuant to

which the aforesaid complaint was lodged. A perusal of the complaint lodged by the complainant/victim girl and her friend, also a victim girl, aged 19 years shows that the same is in variance with the statement recorded of the said girls under Section 164 Cr.PC. In the 164 statement, the complainant has not made any allegations as against the applicant that he lured her into the prostitution. She has stated that she was doing household work in the house of the applicant and his wife. The applicant has no antecedents. The applicant is in custody since 22nd July, 2016. The applicant's first bail application was dismissed as withdrawn vide order dated 5th March 2018. However, the trial of the applicant was expedited. Despite the same, there is no progress in the trial. It appears that attempts were made to serve witness summons on the victim girls, however, they could not be traced in Madhya Pradesh and that the police are in the process of tracing the said victim girls.

6. Be that as it may, considering the role of the applicant and what is stated aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or more local sureties in the like

amount;

ii) The applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 12:00 noon, until further orders;

iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the trial Court, within two week's of his

release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.