

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

BAIL APPLICATION NO.1127 OF 2021

Suryadevkumar Shamsundar Singh .. Applicant

Versus

State of Maharashtra .. Respondent

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Mr.P.R. Dave, Advocate for the Applicant.

Mr.R.M. Pethe, APP for the Respondent - State.

PSI Arun Krushna Bhilare, APMC Police Station, Navi Mumbai,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 25, 2021.

P.C. :

The applicant was arrested on 21st November, 2019 in connection with C.R.No.247 of 2019, registered with APMC Police Station, Navi Mumbai, for the offences punishable under Section 370(2)(3)(4), 366-A, 372 of Indian Penal Code ("IPC", for short) and Sections 3, 4 and 5 of Prevention of Immoral (Trafficking) Act, 1956 ("PITA Act", for short) as well as Sections 4, 12, 14, 16 and 17 of Protection of Children from Sexual Offences Act ("POCSO Act", for short).

2 The prosecution case is that the officer of the concerned police station received information from NGO that the victim girls are made available for prostitution in hotel Blue Star Bar and Restaurant at Vashi, Navi Mumbai. The information was also received that the customers take the girls from the said Bar and Restaurant to nearby lodge for prostitution. With the help of the panch and bogus customers the police raided the said premises. During the raid several victim girls were rescued. The applicants were working at the Prince Lodging and Boarding.

3 This is the second application for bail. The previous application was withdrawn vide order dated 15th January, 2021. It was directed that in the event trial is not concluded within six months, applicant would be at liberty to prefer fresh application for bail. Learned advocate for the applicant submitted that vide order dated 5th February, 20 2021, this Court has granted bail to Yogesh H.S. Shivlingaiah, who is the co-accused in this case. He was acting as a cashier in the premises. While granting bail to him, this Court has considered the statements of the victim recorded under Section 164 of Cr.P.C., wherein, they have not attributed role to the said accused. It is submitted that the statements under Section 164 of Cr.P.C. are annexed to this

application which indicate that the victims have not attributed role of using coercion against the victim girls to force them into prostitution. Victim girls also stated that they are not indulging into prostitution. It is submitted that except the applicant, all other accused are on bail. Co-accused Kedar Yadav and Adarsh Yadav were granted bail by this Court vide order dated 6th July, 2020. Accused Sukra @ Uday Rama Davadiga was granted bail by this Court vide order dated 1st December, 2020. The said accused was allegedly working as waiter in the hotel.

4 Learned APP submitted that the applicant was working as a manager and controlling the business in the hotel. Although, the victims have stated in the statement under Section 164 of Cr.P.C. that they had not indulged into prostitution. The medial evidence with regards to examination of some of the victims indicate that they were sexually assaulted. The said documents are required to be considered and weightage must be given to the said documents. The radiological test conducted to determine the age of the victim girls indicate that some of them were minor. The circumstances under which the victims were found and their statements were recorded be considered.

5 It is pertinent to note that the statements of the victim girls were recorded under Section 161 and 164 of Cr.P.C., which does not attribute any allegation of exploitation or that they were forced to indulge in prostitution. In the statement under Section 164 of Cr.P.C., the victims have stated that they are not involved in prostitution. Co-accused Yogesh H.S. Shivlingaiah, has been granted bail by this Court. The statement of the victims recorded under Section 164 of Cr.P.C., were taken into consideration. It was the case of the prosecution that the said accused was working as a cashier and played a vital role. The other accused Kedar Yadav and Adarsh Yadav were granted bail by this Court is similar to accused Sukra @ Uday Rama Davadiga, who was working as a waiter at Blue Star Bar and Restaurant and allegedly involved in recruiting the waitresses, was granted bail for lack of evidence. The applicant is in custody from 21st November, 2019. Considering the aforesaid circumstances, further detention of the applicant is not necessary.

:: ORDER ::

- (i) Bail Application No.1127 of 2021, is allowed;
- (ii) Applicant is directed to be released on bail in

connection with C.R.No.247 of 2019, registered with APMC Police Station, Navi Mumbai, on executing P.R. Bond in the sum of Rs.25,000/-, with one or more local sureties in the like amount;

- (iii) Applicant shall report concerned police station once in three months on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;
- (iv) Applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/-, for a period of eight weeks, in lieu of surety;
- (v) Bail Application No.1127 of 2021, stands disposed of accordingly;

(PRAKASH D. NAIK, J.)