

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1425 OF 2021

Nitin Baburao Dhone	.. Applicant
Versus	
The State of Maharashtra	.. Respondents

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Mr. Rahul Vijaymane for the applicant.
Mr.S.H. Yadav, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 27th JULY 2021.

P.C:-

1 The applicant is charge-sheeted in C.R.No.727 of 2020 registered with Taluka police station invoking provisions of Sections 3, 4, 5, 6 of Prevention of Immoral Trafficking Act and Section 370(1)(2)(3) of IPC. The applicant is claiming parity with the co-accused Mahesh Thite and the counsel for the applicant would urge that the role attributed to the present applicant is identical to that of Mahesh Thite and that is why he also deserve to be released on bail.

2 The First Information Report is lodged by Shri Salunkhe, PI attached to Prevention of Immoral Traffic

Tilak

Prevention Unit at Solapur. On secret information being received, a raid was conducted in Viraj Hotel on Solapur – Tulzapur highway. Two panchas including one lady panch and one ghost customer were arranged for a trap. When the raid was conducted, victim was found with the ghost customer. The presence of the applicant emerges at this point of time and he was found to be in custody of the currency notes arranged in the trap. Mahesh was also found present in the Hotel, being owner of the hotel. Both the accused persons came to be arrested and the victim was arrested subsequently on 19th January 2021.

3 While admitting the co-accused Mahesh to bail, the learned Single Judge of this Court (Justice Sarang Kotwal) has recorded that the victim has changed her version in her statement recorded on 28th November 2020 and this is in contrast to the case put up in the FIR. In her statement, she state that the applicant Mahesh was paying her Rs.500/- per customer and he had made arrangements for stay and food. Thus she attribute the main role to the accused Mahesh whereas in the complaint, which reflect that inquiry was made with the woman who was alleged to have been acting as a prostitute, she take name of the applicant that she was being paid Rs.300/- by him for every customer, and when she was to return to her village, Nitin had promised to give her the entire amount. This role in her statement is attributed to Mahesh. In her further statement recorded on 29th November

2020, without making reference either to Mahesh or Nitin, she mentioned about a lady who was controlling her activities through her telephone number.

Recording that all the versions of the victim are contradictory and cannot stand together and either of them is true, Mahesh is released on bail. The same analogy can be made applicable to the present applicant and further, the victim girl is a major and she has admitted that she was into the activities of prostitution on her by her own will and was being paid for such indulgence. The case of the prosecution will therefore have to clearly emerge at the time of trial. Since the investigation is complete and charge-sheet is filed, the applicant cannot be incarcerated since he is arrested on 29th November 2019 and remain incarcerated till date awaiting his trial. He is therefore entitled to be released on bail subject to the stipulation that any further indulgence by him in a similar type of offence would entitle the prosecution to move the application for cancellation of bail. Hence, the following order :

ORDER

- (a) The Applicant – Nitin Baburao Dhone – in connection with C.R.No. 727 of 2020 registered with Solapur Taluka Police Station shall be released on bail on furnishing P.R. bond to the

extent of Rs.25,000/- with one or two sureties of the like amount.

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

(d) The Applicant shall mark his attendance in the concerned police station once in every two months,

4 The Application is allowed in the aforesaid terms.

SMT. BHARATI DANGRE, J