

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1157 OF 2021

Zubaida Deen Mahammad Shaikh	Applicant
versus	
The State of Maharashtra	Respondent

WITH
INTERIM APPLICATION NO.1623 OF 2021
IN
BAIL APPLICATION NO.1157 OF 2021

Sharmin Sharif Pathan	Intervenor
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In the matter between :

Zubaida Deen Mahammad Shaikh	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Aniket Vagal, Advocate for applicant in Bail Application.
Mr.A.R.Kapadnis, APP, for Respondent-State.
None for applicant in Interim Application.

CORAM : PRAKASH D. NAIK, J.
DATE : 2nd July 2021

PC :

1. This is an application for bail under Section 439 of Code of Criminal Procedure in connection with CR No.12 of 2020 registered with Gorai Police Station for offences under Sections 366(a), 370(5), 372, 120B of Indian Penal Code and under Sections 16, 17 and 18 of Protection of Children from Sexual Offences Act, 2012.. The FIR was lodged on 8th March 2020.

2. According to prosecution, the complainant received information that person named Ibrahim and his associate Zubeida

are supplying minor girls to customers for prostitution at guest house situated at Manori. The complainant contacted the Social Security Branch, Crime Branch, Mumbai and provided above information to them. Police decided to raid the premises where the activities are being conducted. Decoy customer was arranged and instructions were given to him. The decoy customer contacted Ibrahim on his cell phone and told him to provide the girl for prostitution. Ibrahim told him to visit the guest house at Manori and also quoted amount. The raiding party then proceeded to the said guest house. The decoy customer and others visited the guest house. They found four girls with one male and one female at the guest house. The name of the person was Ibrahim and other woman was his associate. The premises was searched. The applicant is allegedly the associate of Ibrahim. Accused were arrested. The victims were rescued. Their statements were recorded. The age of victims was 17, 16, 17 and 26 respectively.

3. The accused were remanded to custody from time to time. On completing investigation charge sheet was filed. The applicant preferred application for bail before Special Court under POCSO Act. The said application was rejected by order dated 23rd April 2020. Thereafter another application was preferred by the applicant for bail, which was also rejected by order dated 22nd May 2020.

4. Learned advocate for applicant submitted that applicant is lady. She is in custody from 8th March 2020. Although more than one year has passed, trial has not commenced. Section 372 of IPC is not attracted. According to prosecution the decoy customer had conversation with co-accused Ibrahim. The amount was handed over

to Ibrahim. The conversation about providing minor victims was entered with Ibrahim. Section 370 of IPC is not attracted. Except presence of the applicant at the premises which was raided, no other overt act is attributed to the applicant. Investigation is completed and charge sheet is filed. The applicant is lady aged about 60 years.

5. Learned APP submitted that offences are serious. The victims were minors. The applicant was involved in crime. She was present at the place of incident. Three cases were registered against applicant in past.

6. The complainant had allegedly received information that accused are providing minor girls for prostitution. The complainant received contact number of Ibrahim. The decoy customer had conversation with Ibrahim. The customer was called at the place of incident by Ibrahim. The applicant was found present at the guest house. Amount of Rs.30,000/- was handed over to Ibrahim. Statements of victims were recorded. Statement of Kamrunnisa Shaikh mentions that she is mother of one of the victim. She stated that her daughter aged about 16 years had ran away from house on three to four occasions. About one month ago she had left the house and returned home with one Aafrin and told her that she is going to stay with Aafrin. The statement of Nargis was recorded. She is the mother of one of the victim. She stated that Aafrin Shaikh and her daughter are friends and her daughter was residing with Aafrin. Statement of Fatima was recorded. She is the sister of one of the victim. The victim had told her that she was called by Zubeida Shaikh. She was also accompanied by Aafrin and she was told whether she would indulge in prostitution. Statement of

Smt.Badgale was recorded. She is the mother of one of the victim. She stated that her daughter was acquainted with Ibrahim and Aafrin. The applicant was allegedly involved in inviting one of the victim. The said victim had visited for the first time the premises where she was called. Raid was conducted before victims were subjected to prostitution. Two cases were registered against applicant in 2015 and one case in 2014. The documents relating to proof of age of victims are not on record and prosecution is relying on their medical examination. The applicant is in custody for a period of more than one year. Further custody is not necessary. Bail can be granted to her.

7. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.1157 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.12 of 2020 registered with Gorai Police Station, Mumbai on executing P.R.bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station once in three months on first Saturday of the month between 11.00 a.m. to 1.00 p.m. till further orders;
- (iv) The applicant shall not tamper with the evidence;
- (v) The 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;
- (vi) Bail Application stands disposed of. Interim Application No.1623 of 2021 is disposed of accordingly.

(PRAKASH D. NAIK, J.)