

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

CRIMINAL BAIL APPLICATION NO. 1426 OF 2020

Radha Venkateswarao Kodamanchili ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Gaurav Bhawanani, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 26th APRIL, 2021

PER COURT:

1. The applicant is arrested in C.R. NO. 336 of 2019 registered with R.C.F. Police Station, Mumbai for offences under Sections 366(A), 370, 370 (A), 372, 376 r/w Section 34 of Indian Penal Code (for short "IPC") and Sections 3, 4, 5, 7 (1)(B) of the Immoral Traffic (Prevention) Act, 1956 (for short 'PITA Act') and Sections 4, 6, 8, 10 & 17 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The applicant was arrested on 2nd November, 2019.

2. The prosecution case in brief is that, on 1st November, 2019, the informant Police Constable was part of the team formed on the basis of secret information received by the Police. The team

proceeded to Wadala. Bipin Prasad was instructed to act as dummy customer. Thereafter, the dummy customer gave a call to the applicant on her cell phone. The applicant disclosed that she would charge Rs.2,500/- for prostitution. Pre-arrest panchanama was drawn. Dummy customer went to the premises of the applicant. The amount was given to her. He went to the other room. The victim girl was present. Missed call was given to the raiding party. They arrived at the spot. The applicant was apprehended. The victim girl was rescued. The applicant was arrested and produced before the Court. On completing investigation, charge-sheet was filed.

3. Learned Advocate for the applicant submitted that the entire case is false. The applicant has been falsely implicated in this case. The applicant was allegedly managing a brothel. Apart from the victim girl no other girls were rescued. The victim girl had stated, this was the first time she had visited the place of raid. There is no relation between the applicant and the co-accused. The co-accused is conducting different brothel. According to prosecution, there was only one victim girl. It is not the case of the prosecution that the applicant was responsible for inducing, forcing the girls or women for prostitution. No sexual assault took place. Hence, provisions of Sections 4, 6, 8, 10 & 17 of POCSO Act and Section 376 of IPC are not attracted. Section 370 of IPC is not made out. There was no

exploitation to constitute the offence under the said provision. Investigation is completed and the charge-sheet is filed.

4. Learned APP submitted that the applicant was found indulging in the alleged acts amounting to the offences under the provisions of Prevention of Illicit Trafficking, IPC and POCSO Act. There is prima facie material to show that the applicant has participated in the crime. She is living on the earning of the victim. She has received the amount from the customer. The victim was minor. The applicant was present in the brothel at the time of raid. The offence is of serious nature.

5. The applicant is arrested on 2nd November, 2019. Investigation is completed and charge-sheet is filed. There are no criminal antecedents against the applicant. On the date of raid, the victim girl was found at the place of offence. Statement of victim girl was recorded. She gave her age as 16 years. She has not stated that she was subjected to sexual assault on the day of raid or in the past. She was not forced in the prostitution by applicant/accused. The applicant is in custody for a period of about 18 months. There are no criminal antecedents against her. Hence, case for grant of bail is made out.

ORDER

(i) Criminal Bail Application No. 1426 of 2020 is allowed;

- (ii) The applicant is directed to be released on bail in connection with C.R. NO. 336 of 2019 registered with R.C.F. 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 a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. for a period of six months and thereafter, once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m till further order;
- (iv) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)