

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

CRIMINAL BAIL APPLICATION NO. 1877 OF 2019

Swati Baliram Dhumal
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr. Omkar Virendra Warange for the Applicant

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent–State

PC (2233) Mr. Moreshwar Tukaram Omle from Mahad City Police Station,
is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 16th MARCH 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail
in connection with C.R. No. 131 of 2018 registered with the Mahad City
Police Station, for the alleged offences punishable under Sections 370,
376(2)(J)(N), 354 r/w Section 34 of the Indian Penal Code and under
Sections 4 and 8 of the Protection of Children from Sexual Offences Act
and under Section 4 and 5 of the Immoral Traffic (Prevention) Act.

3 Learned counsel for the applicant submits that the applicant has been falsely implicated in the said case. He submits that the applicant is in custody since 15th October 2018 and till date, not a single witness has been examined. He submits that all the co-accused in the said case have been enlarged on bail. Learned counsel relied on the order dated 22nd April 2019 passed by this Court (Coram : P. N. Deshmukh, J.) in Bail Application No. 542 of 2019 preferred by the co-accused – Ranjit Ramesh Natekar. Learned counsel relied on the observations made in the said order. He further submits that a perusal of the 161 statement of the prosecutrix allegedly 17 years old, is in variance with her statement recorded under Section 164 of the Criminal Procedure Code. He further submits that the applicant has no antecedents.

4 Learned A.P.P opposes the application.

5 Perused the papers. From a perusal of the statement of the prosecutrix, it appears that she was sexually exploited by a number of people. It is alleged that the applicant introduced her to the said trade. A perusal of the 161 statement shows that the prosecutrix's financial condition was poor and therefore, she did not object to the sexual

exploitation, as she received money from the same. It is not in dispute that all the co-accused in the said case including the co-accused – Ranjit Natekar have been enlarged on bail. The birth certificate of the prosecutrix shows that she was couple of months short of 18 years of age. The same appears from the medical certificate issued by the Rural Hospital, Mahad. The co-accused – Ranjit Natekar has been enlarged on bail, having regard to the fact that the possibility of the prosecutrix being a major, could not be ruled out. The applicant has no antecedents. She is in custody since 15th October 2018. Till date, not a single witness has been examined.

6 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two local sureties in the like amount;

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

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

(iv) The applicant shall inform her 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;

(v) The applicant shall deposit her passport, if any, to the Investigating Officer before her release;

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

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of her release;

(viii) If there are two consecutive defaults either in attending the Police Station or if the applicant fails to appear before the trial Court, or there is breach of any of the aforesaid conditions, the

prosecution shall be at liberty to seek cancellation of the applicant's bail.

7 The application is accordingly disposed of.

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.