

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

CRIMINAL BAIL APPLICATION NO. 2534 OF 2019

Tony @ Iqbalsingh Mahindra Pal	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Anjali Patil for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent–State

ACP Mr. Laxman Mahadeo Borate from Crime-II, Pune, is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 5th FEBRUARY 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. 757 of 2017 registered with the Yervada Police Station, Pune, for the alleged offences punishable under Sections 370, 376, 420, 417 of the Indian Penal Code; under Sections 3, 4, 5 of the Immoral Traffic (Prevention) Act and under Sections 3(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act ('MCOC Act').

3 Learned counsel for the applicant submits that the allegations as against the applicant are false and baseless. She submits that there is no incriminating material to connect the applicant with the alleged offence nor does the applicant have any antecedents, much less, any case registered as against him individually or with the gang leader. She submits that merely because the applicant was in touch with co-accused-Suresh, would not show the applicant's complicity in the alleged crime. She further submits that even the cash deposits made in the applicant's account cannot be said to be incriminating, inasmuch as, it is not clear who has deposited the said cash amounts in the applicant's account. She further submits that not a single statement has been recorded under Section 18 of the MCOC Act, of any of the accused in the case.

4 Learned A.P.P opposes the application. Apart from cash deposits made in the applicant's account in Pune and the calls exchanged between co-accused-Suresh and the applicant, learned A.P.P is unable to show any material to connect the applicant with the alleged offence. Learned A.P.P also does not dispute the fact that the applicant has no antecedents.

5 Perused the papers. According to the complainant-Shital Bhalekar, ACP, Social Security Department of the Crime Branch, Pune City, she received information on 18th September 2017 that one person i.e. Rahul @ Raju was operating a prostitution racket across various hotels in and around Pune City, pursuant to which, a bogus customer was arranged and the bogus customer was made to connect with Rahul @ Raju on phone for availing the services. Accordingly, the bogus customers were sent, pursuant to which, a raid was carried out at Hyatt Hotel at Pune. In the raid, the complainant and the raiding party rescued 3 women who reported themselves as prostitutes to the bogus customers. On 19th September 2017, the aforesaid C.R. was registered for the aforesaid offences.

6 During the course of investigation, the applicant was apprehended/arrested from his residence on 13th November 2017. The other co-accused also came to be arrested in the present C.R. as well as the C.R. registered with the Lashkar Police Station. Thereafter, provisions of MCOC Act were invoked. As far as the applicant is concerned, admittedly, he has no antecedents. The applicant is a resident of Thane and is running a hotel. The material against the applicant appears to be calls exchanged between him and co-accused-Suresh, allegedly an agent, who would provide victim girls to customers, for prostitution.

7 Whether the applicant himself was a customer or was part of the racket, will be decided by the trial Court. The other material against the applicant is cash deposits in the applicant's bank account of Mumbai. The said monies are alleged to have been deposited in Pune, at locations where other co-accused were residing and where prostitution activities were taking place i.e. Koregaon Park and Viman Nagar. The prosecution is unable to point out who had made the said cash deposits in the applicant's account. Apart from the aforesaid, it appears that when one of victim's mobile was seized, the panchanama shows that the number of the applicant was found on the WhatsApp of one of the victims. None of the victims in their statements have named the applicant. No statement under Section 18 of the MCOC Act of any of the accused is recorded. The applicant has no antecedents. *Prima facie*, the material on record is not sufficient to point to the complicity of the applicant in the alleged crime. The applicant is in custody since 15th September 2018. Investigation is complete and charge-sheet is filed. In the facts, the bar of Section 21(4) is not attracted and hence, there is no impediment to grant of bail to the applicant.

8 Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two local solvent 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 11:00 a.m., till conclusion of the trial;

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

(iv) The applicant shall not leave Mumbai, Thane and Pune Cities, without the permission of the trial Court;

(v) The applicant shall inform his 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;

(vi) The applicant to cooperate with the conduct of the trial and attend the trial Court all the 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 his release;

(viii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9 The application is allowed in the aforesaid terms and is accordingly disposed of.

10 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.

11 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.