

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

Nisha
S.
Chitnis

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CRIMINAL BAIL APPLICATION NO. 3327 OF 2019

Asha Shivling Vaitir
Versus
State of Maharashtra

...Applicant

...Respondent

Mr. Rushikesh Kale i/b Mr. Viresh Puwant, Advocate for the Applicant.
Mr. S. V. Gavand, APP for the State/Respondent.

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 27TH JANUARY 2021

P.C. :

- 1 Heard learned counsel for the parties.
- 2 By this application, the applicant seeks her enlargement on bail in connection with C.R. No. 225 of 2016 registered with Rabale Police Station, Aroli, Navi Mumbai, Thane, for the alleged offences punishable under Sections 3, 4 and 5(d) (1) of the Immoral Traffic (Prevention) Act, 1956 (for short 'PITA Act) and Sections 11(2) and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act').
3. Learned counsel for the applicant submits that the applicant is in

custody for more than 4 ½ years. He further submits that even though the trial has commenced the prospect of the trial concluding in the immediate near future appears to be bleak. Learned counsel relied on the statements of the victim girls to show that the girls on their own accord had engaged in prostitution and that they were not forced into prostitution by the applicant, as alleged.

4. Learned APP opposed the application.

5. Perused the papers. According to the prosecution, the police received a secret information that a woman was conducting prostitution activities in Saraswati Apartment at Aroli, Navi Mumbai, with the help of some other women. It is alleged that the said women were engaging minor girls into prostitution and thereby earning their livelihood. Pursuant to the said information, a trap was laid and the applicant was arrested at the spot and the girls were rescued. It appears that out of the two victim girls, who were rescued, one was a minor, aged about 16 years and other, a major, about 40 years. A perusal of the statement of the victim, aged 40 years, shows that she was into prostitution, as she was in need of money. Similarly, a perusal of the statement of the victim girl, aged 16 years, shows that she had given consent as she was in need of money. Be that as it may, the applicant is in

custody since 14th July 2016, i.e., for more than 4 ½ years and till date only two witnesses have been examined and that too, prior to March 2020. The trial is likely to take some time. The applicant has no antecedents.

6. Having regard to what is stated herein above, 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. 25,000/- (Rs. Twenty Five Thousands Only) with one or two local solvent sureties in the like amount;
- (ii) The applicant shall report to the investigating officer of 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 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;

- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
 - (v) The applicant to co-operate with the conduct of the trial and attend before the trial Court on all the dates, unless exempted;
 - (vi) The applicant shall file an undertaking with regard to Clauses (ii) to (v) in the trial Court, within two weeks of her release;
 - (vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancelled of the applicant's bail
5. The application is allowed in the aforesaid terms and is accordingly disposed of.
6. 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.
7. All concerned to act on the digitally signed by the Personal Assistant/ Private Secretary of this order.

REVATI MOHITE DERE, J.