

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 706 OF 2021

Biren Sohasana Panika

..Applicant

V/s.

The State of Maharashtra

..Respondent

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Mr. Dilip Shinde i/b Rahul Shinde for the Applicant.

Mr. S.R. Agarkar, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 14 MARCH 2022

P.C.

1. The Applicant along with co-accused has been chargesheeted for the offence punishable under Section 376, 344, 366-B, 370, 372, 373 read with Section 34 of IPC and Section 3, 4, 5, 6 of the Immoral Traffic (Prevention) Act and Section 4, 6 and 17 of the Protection of Children from the Sexual Offences Act, 2012 arising out of Crime No. 347 of 2018 registered with Faraskhana Police Station, District Pune.

2. I have heard the learned counsel for the parties and perused record.

3. The allegation is that the wife of the Applicant had brought a minor girl, who is resident of Khulna Sonadana, District Jashor, Bangladesh and kept her at rented premises at Pune, forcing her into prostitution.

4. The supplementary statement of the victim was recorded on 04.12.2018, followed by the statement under Section 164 of Cr.P.C. before the learned Magistrate on 17.12.2018. It is necessary to note that in her statement before the Magistrate, the victim does not name the present Applicant and obviously no role is attributed to the Applicant by the victim.

5. According to the prosecution, the victim was aged about 16 to 17 years on the basis of the ossification test. However, the learned counsel for the Applicant submitted that the Applicant also hails from Bangladesh and he had relied upon the birth certificate (page 268) dated 30.04.2016 in which the date of birth of victim is shown to be 21.05.1996. He, therefore, submitted that the victim was major on the date of the alleged incident.

6. In my considered view, the age of the victim would be a matter which can be gone into at the trial. This is because the prosecution case is of forcing the girl into prostitution. However, victim in her statement under Section 164 of Cr. P.C. has neither named the Applicant, nor attributed any role to the Applicant. The Applicant was arrested on 27.08.2019 and is in custody since

then. The investigation is complete and the chargesheet is filed. Thus, I do not find any justification for further detention of the Applicant in custody pending trial.

7. The learned APP submitted that in the event, this court is inclined to release the Applicant on bail, the Applicant be directed to furnish local surety.

8. Hence, the following order is passed:

ORDER

i) The Applicant **Biren Sohasana Panika** be released on bail in Crime No. 347 of 2018 registered with Faraskhana Police Station, District- Pune, on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall undertake to remain present before the learned Special Court, during the course of trial, unless exempted.

iii) The Applicant shall furnish his native address along with proof before the Special Court.

iv) The Applicant shall not allow his premises to be used for any illegal/immoral purpose and shall not indulge into similar activity while on bail.

v) The Applicant shall not tamper with the prosecution evidence/witnesses.

vi) In the event of breach of any of the conditions, the bail is liable to be cancelled.

vii) Bail bonds to be furnished before the learned Trial Court.

viii) It is made clear that the observations herein are essentially of a prima facie nature and the learned Special Court shall not be influenced by the same at the trial.

ix) Criminal bail application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)