

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3760 OF 2021

Lokesh Monica Raj .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Ashok Bhatia for the Applicant.

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

Mr.Narayan Kumar with Mr.Ashutosh Gangal for the
Intervenor.

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CORAM: BHARATI DANGRE, J.

DATED : 05th AUGUST, 2022

P.C:-

1. The present applicant, who is charge-sheeted as accused No.3 vide Charge Sheet No.86 of 2021 in C.R. No.I-176 of 2021, seeks his release on bail on the ground that there is no material compiled in the charge-sheet establishing his connect with the subject crime.

The subject C.R. invokes Sections 363, 370, 376, 376(N), 366-A, 323, 506(2) read with Section 34 of I.P.C., Sections 4, 6, 10 and 17 of the POCSO Act alongwith Sections 4, 5 and 6 of the PITA Act.

2. The case of the prosecution that can be discerned from the charge-sheet is, a minor girl aged 17 years, was a resident of Rajasthan and, since, her mother performed second marriage, she was residing with her grand-mother. Thereafter, she was sent to her aunts, who were residing in Mira Road. Her one of the aunts was working as singer in the Bar. After coming to Mumbai, she was staying with her cousin sisters, which included, the present applicant who is his cousin brother.

As per the version of the complainant, after the lock-down ended, she was engaged in a Bar where she was working as waitress. At the instance of her aunt, she was sent with one man to establish physical relationship with her. When she told her aunt that she should not be asked to enter into such type of relationship, she was assaulted. The charge-sheet allege that she was sent to different lodges/hotels where forcible intercourse was committed with her. She met with accused No.1 and fell in love with him and, therefore, she eloped from

the house of her aunt and started residing alongwith accused No.1. Her aunt, therefore, lodged a missing complaint, but subsequently, she is arraigned as accused No.2 in the said C.R.

3. When the entire charge-sheet is scanned, the role assigned to the present applicant by the victim in her statement is, whenever she wanted to establish contact with accused No.1, she was restrained and her aunt and her cousin brother (applicant) used to beat her.

4. Learned A.P.P. Mr.Gavand states that the I-Card of the applicant is recovered from the lodge at Indore, where the victim girl was sent for illicit trafficking.

Mr.Gavand fairly states that barring this material, there is no material in the charge-sheet linking the applicant to the offence of trafficking, rape, kidnapping etc.

The statement of the victim girl, recorded under Section 164 does not even make a reference to the present applicant.

5. In the wake of the material compiled in the charge-sheet, the applicant deserves his release on bail. Hence, the following order.

: ORDER :

(a) Application is allowed.

(b) Applicant -Lokesh Monica Raj shall be released on bail in connection with C.R.No.I-176 of 2021 registered with Mira Road Police Station, on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(d) The applicant shall mark his presence before the Investigating Officer on first Monday of every trimester make himself available as and when required by the Investigating Officer.

(SMT. BHARATI DANGRE, J.)