

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3846 OF 2021

Sushil Gyanba Shinde ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Viresh Purwant, for the Applicant
Mrs. P.N. Dabholkar, APP, for the State.

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CORAM : N. J. JAMADAR, J.
DATE : JULY 15, 2022

P.C.:

1. The applicant, who is arraigned in C.R. No. 447 of 2021 registered with Solapur Taluka police station for the offences punishable under section 370A(2) of the Indian Penal Code, 1860 and sections 3, 4, 5 and 6 of Immoral Traffic (Prevention) Act, 1956 (ITPA), has preferred this application to enlarge him on bail.

2. On 17th June, 2021, pursuant to an intimation that prostitution was being carried out at Lotus Lodge, at Plot No.40, Bhogaon Barshi Road, a raid was conducted. A decoy customer was sent with marked currency notes. In room No. 102, a 25 year old lady was found with the said decoy customer. It transpired that the applicant had brought the said lady and another 32 year old lady at the said hotel for the purpose of prostitution. The applicant had

assured to pay them Rs. 500/- per customer. In the raid, the applicant and Nagnath Bansode, the Manager of the said hotel and co-accused were apprehended. The marked currency notes were seized from the applicant. The statements of those two ladies were recorded. They stated that the applicant had brought them at the said hotel by luring them to pay Rs. 500/- per customer. Post completion of investigation charge-sheet has been lodged.

3. The learned counsel for the applicant submitted that the applicant is in custody since 17th June, 2021. Investigation is complete. All the incriminating articles have been seized and the statements of the witnesses including those two ladies have been recorded. The co-accused Nagnath Bansode has been released on bail by this Court by an order dated 4th January, 2022. Hence, the applicant also deserves to be enlarged on bail.

4. The learned APP resisted the application by canvassing a submission that the role of the co-accused Nagnath Bansode and the applicant is distinct and therefore no parity can be claimed. Inviting attention of the Court to the statements of victims wherein they have stated that the applicant was the person who had brought them to the said hotel for the purpose of prostitution, it was urged

that there is overwhelming material to show the complicity of the applicant for the offences punishable under section 370A of the Penal Code and sections 5 and 6 of ITPA.

5. The victims were shown to be of 25 and 32 years of age respectively. Prima facie since the victims were not minors, offence punishable under section 370A(1) of the Code is not attracted. The offence punishable under section 370A(2) entails maximum punishment of five years. Whereas for the offence under section 6 of ITPA, the punishment may extend to imprisonment for life or for a term which may extend to ten years. In the case at hand, however, it would be a matter for trial as to whether the offence punishable under section 6 of ITPA is made out. From the statement of the victims, prima facie, the applicability of the provisions contained in section 6 of the ITPA appears debatable.

6. Investigation is complete for all intent and purpose. The applicant has been in custody for more than a year. The applicant does not seem to have such antecedents which would dissuade the Court from exercising the discretion in favour of the applicant.

7. For the foregoing reasons, I am persuaded to exercise the

discretion in favour of the applicant, by imposing certain conditions.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant Sushil Gyanba Shinde be released on bail in C.R. No. 447 of 2021 registered with Solapur Taluka police station, on furnishing a P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount, to the satisfaction of the learned Magistrate.
- 3] The applicant shall not leave the jurisdiction of the learned Magistrate without prior intimation.
- 4] The applicant shall not directly or indirectly engage in any similar act or make an attempt to contact the victim and shall not otherwise tamper with the prosecution evidence/witnesses.
- 5] In the event of breach of any of the conditions, the bail is liable to be cancelled.

(N. J. JAMADAR, J.)