

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3717 OF 2021

Dipak @ Kumar Umashankar Tiwari

Applicant

versus

Union of India and another

Respondents

Ms.Pooja Agarwal with Mr.Prakash Chavan i/by Mr.Akshay Badve,
Advocate for applicant.

Ms.Keral Mehta, Advocate for respondent no.2.

Mr.H.S.Venegavkar, Special P.P. with Mr.Kamran Ali Shaikh, for UOI.

Mr.M.G.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 6th October 2022

PC :

1. The applicant is seeking bail in CR No.68 of 2020 registered with Nani Daman Police Station on 23rd July 2020 for offences under Sections 370, 370-A, 376, 506, 120-B r/w 34 of IPC and u/s.4, 5 of Immoral Trafficking (Prevention) Act, 1956 and Sections 6 and 17 of Protection of Children from Sexual Offences Act, 2012. The applicant was arrested on 26th July 2020.

2. The case of prosecution is that the victim girl is aged around 16 years hails from Bangladesh. Her friend induced her and brought her to Kolkata. Thereafter she was kept there and some unknown person brought her to Daman. The accused namely Bobby introduced the victim to another accused Kiran Patel @ Chhotu who forced the victim into prostitution. The applicant is working with co-accused Kiran Patel @ Chhotu and used to take the victim to customers. The victim managed to save herself and approached

police and lodged complaint. Other victims could not be traced out.

3. The contention of applicant is that he is not the main accused and he used to act on the instructions of other accused. Accused Kiran Jadeja was granted bail. The applicant is in custody for a period of two years. The applicant had no knowledge that the victim was minor. There is no progress in trial.

4. Learned counsel for respondent no.1 submitted that victim is minor. The applicant is assigned role of taking the victim to customers. He has participated in the crime. The co-accused who was arrested and granted bail, had threatened the victim and FIR has been registered.

5. Learned counsel for respondent no.2 submitted that the offences are made out against applicant. The applicant has played vital role in the crime. The victim is minor. In the event bail is granted to the applicant, there is every likelihood that he would tamper with evidence.

6. There is no document on record relating to the age of victim, such as, birth certificate or or school record etc. However, prosecution is relying upon test conducted by Government Hospital, Daman to determine her age. The report dated 28th July 2020 indicate that the victim was examined by radiological test and opinion was obtained. On the basis of examination age of the victim girl stated to be more than 16 years and less than 18 years. There is debate about exact age of the victim girl. The applicant is in jail for a period of 2 years. Further detention is not necessary.

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.68 of 2020 registered wit Nani Daman Police Station, on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for eight weeks;
- (iv) The applicant shall report Nani Daman Police Station once in a month on every first Saturday between 11 am and 1 pm till further orders;
- (v) The applicant shall not tamper with evidence and shall not threaten the victim or any other witnesses.

(PRAKASH D. NAIK, J.)

MST