

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

CRIMINAL BAIL APPLICATION NO. 4138 OF 2021

Yuvraj Ramsing Rathod	...Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Ritesh M. Thobde a/w. Mr. Sagar S. Tambe, for the Applicant.
Mr. Y. Y. Dabke, APP for the Respondent-State.

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**CORAM : C.V. BHADANG, J.
DATE : 29 MARCH 2022**

P.C.

. The Applicant alongwith co-accused has been chargesheeted for the offence punishable under Section 3, 4, 5 and 6 of the Immoral Traffic (Prevention) Act, 1956 (PITA Act) and Section 370-A(2) of IPC, in Crime No.644/2021 of Police Station Solapur City, Solapur. The said crime is registered on the basis of the complaint dated 19 August 2021 lodged by PSI Prashant Kshirsagar attached to Social Service Branch of Police Station Solapur City.

2. According to the informant, on 18 August 2021, a secret information was received that there is prostitution being conducted at Yashodan Hotel & Lodge of the Applicant.
3. Accordingly, a raid was conducted at the said lodge at about 8.30 p.m., in which a decoy customer, Sagar Pawal, was sent to the said lodge with marked currency notes. The decoy customer went to the lodge and met the Applicant and disclosed his purpose of visit. The Applicant then took the decoy customer to a lady who is the co-accused in this case who ultimately took the decoy customer to a room, where one of the girls, brought for the purpose of the prostitution was present. On a predetermined signal being given, other members of the raiding party, went there and the Applicant and the co-accused were arrested and the two victim girls were rescued.
4. In this case, upon completion of investigation, a chargesheet is filed.
5. The Applicant was arrested on 19 August 2021 and is in custody since then.
6. I have heard the learned counsel for the parties. Perused record.

7. It is submitted by the learned counsel for the Applicant that the Applicant was not aware of the conduction of the illegal business in his lodge. He submitted that even otherwise both the girls are major and it was not the Applicant who had procured the girls so as to attract Section 5 of the PITA Act. It is submitted that there is no material to show that any of the girls were detained in the premises. It is submitted that even according to the prosecution, the decoy customer had paid the amount to the co-accused from whom it was recovered. The learned counsel has pointed out that the offence under Section 3 and for the matter of that Section 4 of the PITA Act would invite maximum sentence of five years with fine.

8. Learned APP has submitted that the Applicant is the owner of the lodge and was present at the time of the raid. He states that it was the Applicant who had taken the decoy customer to the co-accused, who had procured the girls for the purpose of prostitution. It is submitted that even after disclosing the purpose of the visit, by the decoy customer, the Applicant entertained him, which would indicate that the Applicant was aware of the prostitution taking place in the lodge.

9. I have considered the circumstances and the submissions made.

10. It is not disputed that the Applicant is owner of the lodge and was present at the time of the raid. The contention that the Applicant was not aware of the illegal business being carried on at the lodge, cannot *prima facie* be accepted. This is because as rightly submitted on behalf of the prosecution, even after the decoy customer disclosed his purpose of visit, the Applicant entertained him and took him to the co-accused who is a lady who had procured the girls. However, there is no material to show that it was the Applicant who was instrumental in procuring the girls nor there is any material to show that the girls were detained as such in the said hotel and the lodge. It can thus be seen that the offence under Section 5 namely procuring, inducing or taking any person, for the sake of prostitution and Section 6, for detaining the person in premises where prostitution is carried out may not *prima facie* be attracted. The offence under Section 3 which provides for punishment for keeping the brothel or allowing the premises to be used as a brothel (which may *prima facie* be attracted against the Applicant) invites the maximum sentence of imprisonment for five years with fine.

11. The investigation in this case is complete and the chargesheet is filed. The victim girls have been rescued. There are no criminal antecedents against the Applicant which are pointed out by the prosecution.

12. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Yuvraj Ramsing Rathod, be released on bail in Crime No.644/2021 of Police Station Solapur City, Solapur, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.
- (iii) The Applicant shall undertake to remain present during the trial, unless exempted.
- (iv) The Applicant shall not tamper with the prosecution evidence / witnesses.
- (v) The Applicant shall not permit the use of the hotel and the lodge for any illegal purpose.
- (vi) In the event of breach, the bail is liable to be cancelled.

C.V. BHADANG, J.