



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

BAIL APPLICATION NO. 1388 OF 2023

KAJAL SHIVA MANDAL

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Mr. Ajay L. Bhise a/w Mr. Tarsemsing Gabbi, for the applicant.

Mr. N. B. Patil, APP for the State.

Ms. Gargi P. Joshi, for Respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 27, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under section 370(4) of the Indian Penal Code, 1860, under sections 12 and 18 of the Protection of Children from Sexual Offences Act, 2012, sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956, under sections 75, 81 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015 registered on 15/12/2021 vide C.R. No.268 of 2021 with Thane Nagar Police

Station, Thane. The applicant was arrested on 14/12/2021.

3. The victim at the relevant time was 14 years of age. The applicant is the step-sister of the victim. While at Nepal, the applicant promised the victim that she would provide her some employment in Mumbai. On the date of the incident i.e. on 14/12/2021, the applicant asked the victim to accompany her. They proceeded in a rickshaw. The applicant accepted money from one person. Thereafter the raiding party rescued the victim. It is the accusation that the applicant had attempted to force the victim into prostitution and had almost succeeded, but for the timely intervention by the raiding party.

4. Learned APP and learned counsel for the respondent no.2-Ms. Joshi vehemently opposed the application for bail. It is submitted that the offence is serious and the applicant had almost forced the victim into prostitution but by the time, there was intervention by the investigating agency. It is submitted that there is every likelihood of the applicant tampering with the evidence and witnesses.

5. The victim is presently in Nepal. The applicant is the mother of two children from first marriage. While in custody she gave birth to a baby boy on 05/08/2022 who is now 1 year old. The

accusations are no doubt serious. The applicant is a woman who was arrested on 14/12/2021 and now is in custody for more than 1 year and 9 months. There is no possibility of trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant can be enlarged on bail by imposing stringent conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Kajal Shiva Mandal in connection with C.R. No. 268 of 2021 registered with Thane Nagar Police Station shall be released on bail on her furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the investigating officer of Thane Nagar police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (e) The applicant shall not directly or indirectly make any

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

(f) On being released on bail, the applicant shall furnish her contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly.

(h) The applicant shall not leave the jurisdiction of Mumbai, Mumbai Suburban District and Thane District without permission of the trial Court.

(i) Any attempt on the part of the applicant to contact, influence or threaten the victim will be viewed seriously and which may include the consequence of cancellation of this bail.

(j) Learned counsel for the applicant on instructions has undertaken that no such attempt will be made to contact or pressurize the victim.

6. The application is disposed of.

7. I appreciate the valuable assistance rendered by Ms. Gargi

Joshi, learned Advocate, who appeared on behalf of the respondent no.2 in this proceeding.

(M. S. KARNIK, J.)