



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

BAIL APPLICATION NO.2706 OF 2023

RUKSANA @ SANIYA HAMID HUSSAIN
KHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Shabbir A. Shora a/w Adv. Mubbasheera Shaikh a/w
Adv. Zishan Tarafdar for the applicant.
Ms. Rutuja Ambekar, APP for the State.
Mr. Satyavrat Joshi for respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 14, 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 Sections 366(A), 370(1)(4), 372 of the Indian Penal Code (hereafter 'IPC' for short), Sections 4, 12 of the Prevention of Children from Sexual Offences Act, 2012 (hereafter 'POCSO' for short) and under Sections 4, 5 of the Immoral Traffic (Prevention) Act, 1956 registered on 11.02.2023 vide C.R. No.71 of 2023 with Turbhe Police Station.

3. On the earlier occasion, I was inclined to enlarge the applicant on interim bail in view of the urgency. I had issued notice to the victim in view of the provisions of POCSO Act. I am informed that the victim has been duly served and she has requested for legal aid. Mr. Satyavrat Joshi, learned counsel made his submissions on behalf of the victim opposing the application for bail.

4. The victim at the relevant time was around 16 years of age. It is the accusation that in a raid that was conducted, a dummy customer approached the victim when it was realised upon recording the statement of the victim, that it is the applicant who has forced the victim into prostitution. I have gone through the statement of the victim. The victim was minor and therefore the provisions of POCSO Act are invoked. It is the contention of learned counsel for the applicant that the victim was in need of money and that there has been no force exerted by the applicant on her to indulge in these activities. Learned counsel for the applicant also invited my attention to the statement of the dummy customer to submit that act on the part of the victim in

consenting to a physical relationship with the dummy customer was voluntary. It is post the raid that the victim named the applicant.

5. The accusations against the applicant no doubt are serious, moreover the victim is a minor.

6. It is pointed out by learned counsel for the applicant that the applicant is a woman having no criminal antecedents reported against her. It is further pointed out that the applicant is a mother of eighteen months old child who is in prison along with her. It is not disputed that the applicant is now eight months pregnant. On humanitarian grounds and in the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail considering that the applicant is eight months pregnant and has to look after a child of eighteen months of age who is in custody along with her.

7. The victim is a resident of Mumbai. The offence is registered at Turbhe Police Station, Thane district. Learned APP and learned counsel for respondent No.2 expressed an apprehension that the victim will be threatened if the

applicant is enlarged on bail. To allay this apprehension, I propose to impose some stringent conditions on the applicant. The applicant needs to be enlarged on bail. The investigation is complete and the charge-sheet has been filed. The applicant was arrested on 10.02.2023 and is in custody for seven months. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Ruksana @ Saniya Hamid Hussain Khan in connection with C.R. No.71 of 2023 registered with Turbhe Police Station shall be released on bail on her furnishing P.R. Bond of Rs.25,000/- with one or more 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 four weeks in lieu of surety.
- (d) 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.

(e) 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.

(f) The applicant shall attend the trial regularly unless exempted by the trial Court.

(g) Since the victim is residing in Mumbai, the applicant shall not reside in Mumbai and Mumbai Suburban District till conclusion of the trial.

(h) Any attempt on the part of the applicant to contact or threaten the victim will be viewed seriously which may result in cancellation of bail.

8. The application is disposed of.

9. I appreciate the assistance rendered by Mr. Satyavrat Joshi, learned Advocate, who appeared on behalf of the respondent No.2.

10. The trial Court is requested to record the statement of the victim in terms of Section 35(1) of the POCSO Act expeditiously. This order be placed before the trial Court.

(M. S. KARNIK, J.)