



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1014 BAIL APPLICATION NO. 1789 OF 2024

SAMINA SAEED SHAHA @ SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Surse Sunil B.
APP for Respondent/State : Mrs. M.L. Sangit
Advocate for Respondent 2 : Ms. Aummaheshwari S. Jadhav (Appointed
Through Legal Aid)

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CORAM : ARUN R. PEDNEKER, J.
Dated : December 18, 2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned APP for the respondent/State and Mrs. A.S. Jadhav, assisting the learned APP.
2. The applicant is seeking bail as she was arrested on 21.1.2024 in connection with Crime No. 14/2024 registered with Harsul Police Station, District Aurangabad for the offences punishable under sections 370(1), 370(A), 376, 376(2)(n), 343 r/w. 34 of Indian Penal Code and under sections 4, 6, 8, 12 of Prevention of Children from Sexual Offences Act and under sections 3, 4, 5 and 6 of the Immoral Traffic (Prevention) Act, 1956.
3. It is the case of the informant/victim that she had travelled from Bangladesh to India for the purpose of job. From Calcutta she moved to Pune and thereafter to Aurangabad. She was taken by various persons from place to place and ultimately she came in custody of applicant at Aurangabad. It is the case of the informant that applicant kept the informant in her house and in her house and she has allowed various persons to have physical relations with the informant for monetary

consideration against the wish of the informant. It is stated that victim contacted her father at Bangladesh and the father of the victim, in turn has given information to the police in Bangladesh. The authorities from Bangladesh contacted authorities in India and thereafter, the police are able to contact and rescue her. Accordingly, the FIR was registered against the applicant and other accused for the aforesaid offences.

4. The learned counsel for the applicant submits that the applicant is a lady. She was arrested on 21.1.2024 and since then she is in jail. Present application is filed after filing of the chargesheet. The learned counsel for the applicant submits that the applicant had given shelter to the informant and it is apparent from her statement under section 164 of Cr.P.C. that she was fully aware as to why she had moved from Bangladesh to India. The learned counsel submits that ossification test shows the complainant is between 17 to 19 years. The learned counsel for the applicant submits that the applicant has been made accused first time in the offence like above nature. The learned counsel submits that informant herself was involved in this particular crime and it is only for the monetary part which has gone wrong and thereafter, complaint is filed.

5. The learned counsel for the applicant submits that accused Prashant and accused Wajid in this crime were granted bail and the role of accused Wajid is similar to that of the applicant.

6. The learned APP Mrs. Sangit, so also Ms. Aummaheshwari S. Jadhav for respondent No. 2 (informant) submit that the role of accused Wajid is not identical with the present applicant. The learned APP submits that the offence is very serious in nature for which punishment provided is seven years and which can be extended to 10 years. The learned APP submits that

in statement under section 164 of Cr.P.C. the victim has taken the name of the applicant and one more person, stating therein that both are the same persons. The learned counsel submits that since the victim is from Bangladesh and she is not familiar or conversant with the Marathi or Hindi languages, as such there are some discrepancies and the benefit of the same cannot be given in favor of the accused. The learned counsel submits that the ossification test shows that victim was between 17 and 19 years and nevertheless the role of the applicant is there in the crime. The APP submits that only because she is behind bars for approximately one year, bail cannot be granted to the applicant.

7. This Court is considering the bail application of the applicant. Since 21.1.2024 the applicant is behind bars. The applicant is a lady. One accused Mr. Wajid has been granted bail by this Court in this crime, who is also stated to be earning from the money received by the informant from the customers. Although this Court is aware of the plight of the victim, as the applicant is lady and first time she is involved in such crime and particularly the trial will take substantial time to conclude, no purpose will be served by keeping the applicant behind the bars.

8. In view of the above, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No. 14/2024 registered with Harsul Police Station, District Aurangabad for the offences punishable under sections 370(1), 370(A), 376, 376(2)(n), 343 r/w. 34 of Indian Penal Code and under sections 4, 6, 8, 12 of Prevention of Children from Sexual Offences Act and under sections 3, 4, 5 and 6 of the Immoral Traffic (Prevention)

Act, 1956, on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.

d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

9. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

10. The application stands disposed of.

11. The fees of the appointed counsel for the victim be paid by the Secretary, Legal Services Sub-Committee, Aurangabad as per rules.

(ARUN R. PEDNEKER, J.)

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