



IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO.3 OF 2024

David Chettiar S/o. R.K. Swamy,Applicant/Accused.
Age 55 years, r/o. H.No.121, Pokem Bhatt,
Near Elizabeth Church, Polle Waddo,
Ucassaim, Bardez Goa

v/s.

StateRespondent
Through Police Inspector,
Crime Branch, Ribandar,

Mr. Salil Saudagar, Advocate for the Petitioner.

Mr. S.G Bhobe, Public Prosecutor for the Respondent/State.

CORAM: **BHARAT P. DESHPANDE, J**

RESERVED ON: **16th July, 2024.**

PRONOUNCED ON: **20th July, 2024.**

ORDER :

1. Heard Mr. S. Saudagar, learned Counsel for the Applicant and Mr. S.G. Bhobe, learned Public Prosecutor for the State.
2. The applicant was placed under arrest on 25/04/2024 in Crime No. 67/2024 registered at Criminal Branch Police Station for the offence punishable under Section 370(1) (2) r/w. 34 IPC and Section 4, 5 and 7 of the Immoral Traffic (Prevention) Act 1956.

3. The Applicant preferred bail application before the learned Sessions Court which came to be rejected on 17/05/2024.

4. Mr. Saudagar appearing for the Applicant would submit that the Applicant is not having any criminal antecedents and that since last two months he is in jail. The investigation is almost complete and thus the Applicant is entitled to be released on bail. He would further submits that the Applicant will abide by all the terms and conditions imposed while releasing him on bail.

5. Per contra, Mr. Bhobe submits that the offence is serious in nature and there is every possibility that the Applicant may abscond after release of bail since he is not permanent resident of Goa and that he has not disclosed his native address, his business or income and other details which are necessary for the investigating agency to secure his presence.

6. Mr. Bhobe would further submit that on the information, a raid was conducted during which the Accused/Applicant was found supplying a girl to the customer and therefore there is direct material about the involvement of the Applicant in the offence punishable under Section 370 of IPC. He submits that there is racket wherein other persons are also involved and

therefore if the Applicant is released, he may try to influence the witnesses including the trafficked girl and may try to destroy the evidence.

7. From the reply filed on record, it revealed that on 25/04/2024 a raid was conducted on the basis of reliable information, at Calangute. During the said raid one victim girl was rescued who came along with the Applicant/Accused. The statement of the said victim is recorded by the investigating agency, in presence of the NGO wherein she confirmed that the Applicant along with one Mr. Raju induced her for the purpose of sexual activities and both are living on the earnings of prostitution. She also informed the investigating agency that the other person by name Raju is also involved in the said offence.

8. The reply further show that during the investigation the call details of the customers/clients on the mobile phone of the Applicant/Accused were procured which show that the Applicant was directly involved in the said offence.

9. Mr. Saudagar submitted the address of the sister of the Applicant claiming that she has relative in Thane, Maharashtra, in order to show that the Applicant is not alone but having some family members.

10. Mr. Saudagar has placed reliance in the case of **Freedom Firm v/s. Commissioner of Police, Pune and others** reported in [(2015) 10 Bom CK 0175] wherein the Division Bench of this Court while considering the petition filed by the Freedom Firm showing the concerned about the trafficking and the conditions of the trafficked victims, discussed various aspects and laid down the guidelines for the purpose of grant or refusal of bail in paragraph 26 which reads thus:

"The application for bail must take into account -

(a) The fundamental right of the victim not to be trafficked. - All else is subservient.

(b) The antecedents of the accused - The trafficker would be easily seen to have been earlier apprehended and arrested. Such accused are habitual offenders.

(c) The repetitiveness of the offence - since it is a career in crime, it is bound to be repeated upon the accused being released on bail thus trafficking further similar victims which is the State's duty to prevent.

(d) The intimidation and threat that accompanies the relationship between the accused and the victim. - The victim is the helpless chattel of the accused, the accused being in a position to threaten her to lie and coerce her to turn hostile and thus tamper with evidence.

(e) The economic position of the accused, if a trafficker, - This would reflect in the brothel that he or she runs and which is statutorily required to be sealed and closed by the police - this would be the most potent antidote. The crime of trafficking in humans is an

organized crime. It is one of the most profitable criminal activities world-wide.

(f) The violence involved in the case - reflected from the statement of the victim and the other witnesses, if any. The violence suffered by the victim would show the strength in the position of the accused.

(g) The subterfuge deployed by the accused in diverting the police machinery from himself or herself - when non traffickers and other docile persons who may be working for the accused in various positions may be kept in the frontline for arrest and who need to be released on bail as harmless co-accused."

11. The present matter would clearly go to show that till date the investigation is in progress as no chargesheet is filed. The Applicant though disclosed that he was residing at Pokem Bhat, there are no specific disclosure made in the Application that he is residing therein as his own property or on a rent or otherwise. From last two months, the Applicant is in custody and if released on bail, will not be available during the trial. In response to such arguments, Mr. Saudagar has placed on record the address of the sister of the Applicant who resides in Thane. Mr. Bhobe also submits that only furnishing such address would not be sufficient. The Applicant being found involved in the trafficking, needs to be put to strict conditions and even in the bail application he should disclose material particulars about his

family, his income, the business or otherwise so as to consider and secure his presence during the trial.

12. The material placed on record and more specifically a reply would clearly go to show that the Applicant was apprehended during a raid while supplying victim to a customer. Thus the possibility of the Applicant indulging in similar type of offences if released on bail and when the chargesheet is not filed, cannot be ruled out.

13. Secondly, there are no particular details filed in the Applications giving particulars of the accused, his family background, income, residence which according to the investigating agency is necessary even at the stage of considering bail application. The Court is certainly entitled to know the details of the Applicant so as to pass necessary orders and more particularly to secure his presence during trial.

14. The main purpose of grant of bail is to secure the presence of the Accused during trial on the basis of personal bond or sureties or otherwise.

15. Considering the fact that the investigation is still in progress and till date the chargesheet is not filed, I am not

inclined to enlarge the Applicant on bail at this stage and more particularly considering the guidelines laid down in the case of **Freedom Firm** (supra) as quoted above.

16. Accordingly, the Application stands rejected.

BHARAT P. DESHPANDE, J.