

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

ANTICIPATORY BAIL APPLICATION NO. 344 OF 2024

Ms. Simran Kisan Singh

..Applicant

Versus

State of Maharashtra

..Respondent

Mr. M. V. Holamagi a/w. Sujit Holamagi for Applicant.

Smt. M. H. Mhatre, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 6 FEBRUARY 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.265 of 2023, registered at Chembur Police Station, Mumbai, on 01.06.2023, at 1.35a.m., under Sections 370(1) r/w. 34 of the I.P.C. and U/s.3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

2. Heard Mr. Holamagi, learned counsel for the applicant and Smt. Mhatre, learned APP for the State.

3. The F.I.R. is lodged by the police constable Rahul Aarakh. He was attached to Crime Branch, Chembur. On

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31.05.2023, he joined his duties at 10.00a.m. At that time, his seniors called him and told him and his associates that they had received a specific information that the present applicant was conducting prostitution in Chembur Camp area. The police officers arranged a bogus customer. He called on the mobile phone number mentioned in the information. The bogus customer was given five currency notes of Rs.500/- each. The photocopies of the notes were taken. The pre-trap panchanama was recorded in the office of the investigating agency. Thereafter the raiding party went to the hotel and the bogus customer went to the room which was already booked. After some time, the bogus customer sent a message to one of the raiding party members and informed that the girl had reached that room. Thereafter the panchas and the raiding party members went to that particular room. It was opened by the bogus customer. There were two women and one man present inside. One of the women was having the currency notes given by the bogus customer to her. That woman is the present Applicant. The currency notes were tallied. The victim informed the raiding party that the applicant who was having same currency

notes was supplying the victims to the customers. The applicant used to keep 70% of the earnings and 30% was given to the victim. The victim informed the raiding party that the applicant had taken Rs.2500/- from the bogus customer. The search was carried out. The F.I.R. was lodged at 1.35a.m. on 01.06.2023 i.e. during the night time after the raid.

4. Learned counsel for the applicant submitted that, her custodial interrogation is not necessary. In the proforma the applicant's name is not mentioned. She is a lady. The incident is dated 31.05.2023 and after all these months, her custodial interrogation is not necessary. She is willing to co-operate with the investigation. He submitted that the investigating agency did not arrest the applicant at the time of raid itself and, therefore, after all these months, there is no necessity of arresting her.

5. Learned APP submitted that the entire procedure was conducted between 1.30p.m. to 5.25p.m. on 31.05.2023 and thereafter, the F.I.R. was lodged at Chembur police station at 1.35a.m. Therefore, the applicant who was a lady could not be

arrested since it was a night time and, therefore, she was allowed to go. That does not mean that the applicant can take advantage of this situation and that she cannot be arrested. The offence is grave.

6. I have considered these submissions and I have perused the investigation papers before the Court. The investigation papers contain statements of the raiding party members, as well as, the statements of employees of the said hotel. There was a statement of the bogus customer, as well. All of them have corroborated the statements in the F.I.R.

7. The Applicant was seen at the spot having accepted the currency notes given by the bogus customer. Her involvement in the offence is clear. The offence is serious. Her custodial interrogation is necessary. As per the information, the applicant was indulging in similar activities. Therefore, it is necessary to trace the other similar activities involving the other victims. There is no force in the submission of the learned counsel that since the applicant was not arrested on that day, she cannot be arrested now. Learned APP has explained that, after completing the formalities

the F.I.R. was lodged; by which time it was already midnight and, therefore, the investigating agency did not arrest her at that point of time. Thereafter the applicant was not available. She has not co-operated with the investigation. The victim was exploited by the Applicant in the offence. In this view of the matter, the applicant's custodial interrogation is necessary.

8. Considering this discussion, the applicant cannot be protected U/s.438 of the Cr.p.c. The Application is rejected.

(SARANG V. KOTWAL, J.)