

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.554 OF 2023

Rahul Thakur Prasad Verma	vs.	...Applicant
The State of Maharashtra and Another		...Respondents

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Mr. Pramod Shukla, for the Applicant.
Mr. Y.M. Nakhwa, APP, for the Respondent/State.
Ms. Tahera Qureshi, for Respondent No. 2.

CORAM : N. J. JAMADAR, J.
DATE : JANUARY 29, 2024

P.C.:

1. The applicant who is arraigned in C.R. No.1048 of 2021 registered with Goregaon police station for the offences punishable under sections 366(a), 370(2) (3) (5), 372 read with 34 of Indian Penal Code, 1860; sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 and sections 16, 17 and 18 of the Protection of Children from Sexual Offences Act, 2012 and sections 81 and 87 of Juvenile Justice Act seeks to be enlarged on bail.

2. On 16th October, 2021 a secret information was received that the applicant was procuring minor girls and models for the purpose of prostitution by contacting other touts and prospective customers. Goregaon police conducted surveillance. Decoy customers were employed. A decoy customer had a telephonic conversation with the applicant. As agreed, the applicant along

with girls, who were procured for prostitution, reached Shree Krupa Restaurant, Goregaon (w). The decoy customer approached the applicant. After ascertaining that the applicant had brought the girls/victims at the said place for the purpose of prostitution, the applicant and the co-accused were apprehended. The victims were rescued. During the course of investigation, it transpired that the applicant had shared photographs of the girls procured for prostitution on Whatsapp and accepted money for the same. As the investigation revealed the complicity of the applicant, post completion of investigation, charge sheet came to be lodged.

3. Mr. Shukla, the learned counsel for the applicant, submitted that the co-accused Rajani Gautam and Jitendra Gautam were released on bail by the learned Special Judge, Court of Session. The statements of the alleged victims do not incriminate the applicant. Prima facie, the offences punishable under section 366(a), 370(2)(3)(5), 372 of the Penal Code are not made out. Therefore, the applicant deserves to be released on bail.

4. The learned APP resisted the application. It was submitted that there is material to indicate that the applicant had shared the photographs of the victim who were procured for prostitution and

accepted the money from the customers. Thus, there is a strong prima facie case against the applicant.

5. The learned counsel for respondent No. 2/victim also resisted the prayer for bail. Inviting attention of the Court to the transcript of the conversation which the applicant had with the decoy customer, the learned counsel for respondent No. 2 submitted that there is material to show that the applicant had been forcing the girls into prostitution and living on the earnings of the prostitution.

6. The learned counsel for the applicant attempted to salvage the position by submitting that the photographs of the girls allegedly rescued in the raid in question were not found in the mobile phone handset, which was allegedly seized from the applicant.

7. I have carefully perused the material on record. Evidently, the applicant was apprehended along with the victim girls in the raid. The presence of the applicant along with the victim has been prima facie established. It is true the learned Special Judge has exercised the discretion to release the co-accused on bail. The co-accused were released on the premise that the principal role was attributed to the applicant.

8. The most incriminating circumstance is the data found in the mobile phone handset of the applicant, which is annexed to the charge sheet. The said data indicates that the applicant had shared photographs of a number of girls and had procured them for prostitution and made offers to the customers and also accepted money from the customers. Thus, there is a very strong prima facie case of the applicant having procured the girls for prostitution and lived on the earnings of the prostitution. Few of the girls procured by the applicant are stated to be minor.

9. In this view of the matter, I find it rather difficult to accede to the submission of the applicant that he is entitled to claim parity with the co-accused, who are released on bail. This is not a fit case where the Court would be justified in exercising the discretion in favour of the applicant to release him on bail. I am, therefore, not inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands rejected.

2] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not

be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)