



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.661 OF 2024**

Anjana Suresh Sarkar

... Applicant

versus

The State of Maharashtra

... Respondent

Ms. Anjali Awasthi with Mr. Aamir Khan, for Applicant.

Mr. Tanveer Gurvinder Khan, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 22 FEBRUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.786 of 2023 registered with Kashimira Police Station for the offences punishable under Section 370 of the Indian Penal Code and Sections 3, 4 and 5 of the Prevention of Immoral Traffic Act, 1956.
3. The Applicant has been running a spa under the name and style of 'Capital Family Spa' at Mira Road (E). The victim is the major daughter of the applicant.
4. Pursuant to an intimation that the applicant has been running a brothel, disguised as spa, and living on the earnings of the prostitution, Kashimira police conducted a raid on 4 December 2023. A decoy customer was sent. The applicant allegedly collected a sum of Rs.5,000/- from the said decoy customer. While the

victim and the decoy customer were in a cabin, the police party raided the said spa.

The applicant was apprehended. Cash amount of Rs.5000/- was recovered from the possession of the applicant. The victim was rescued.

4. Learned Counsel for the applicant submitted that the applicant and the victim has been running a legitimate spa center since six months prior to the alleged raid. The victim is 23 years old girl. The applicant and the victim have been falsely arraigned for running a legitimate business.

5. Learned APP resisted the prayer for bail. It was submitted that the applicant has forced her daughter to indulge in prostitution and has been living on the earnings of the prostitution. It was further submitted that in the event the applicant is released on bail, there is a strong possibility that the applicant will indulge in identical offences.

6. I have perused the report under Section 173 of the Code and the documents annexed with it. Prima facie, it appears that the applicant has been running a spa since six months prior to the alleged raid with all regulatory approvals. A decoy customer had allegedly visited the spa a day prior to the alleged raid. In the statement of the victim recorded under Section 164 of the Code, the victim has declined to subscribe to the prosecution version. The victim has narrated that she and her mother have been conducting the spa business since six months prior to the occurrence.

7. Prima facie, the element of human trafficking with a view to exploit the

victim seems lacking. Nor there is material to show that the applicant had either kept the brothel or allowed the premises to be used as a brothel. The spa centre has been running for six months. In the circumstances, whether the applicant induced the victim for the purpose of prostitution and has been living on the earnings of the prostitution appear to be matters for trial.

8. The Court is informed that there are no antecedents of the applicant.

9. In the circumstances, a prima facie case for exercise of discretion is made out. I am, therefore, inclined to release the applicant on bail.

8. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Anjana Suresh Sarkar be released on bail in C.R.No.786 of 2023 registered with Kashimira Police Station, on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark her presence at Kashimira Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of two years or till the conclusion of the trial whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. 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.

(v) The applicant shall not indulge in identical activities for which she has been arraigned in this case.

(vi) 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.

(vii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(viii) 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.)