

Sayali Upasani

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

BAIL APPLICATION NO. 918 OF 2023

Rajesh Ramfer Verma

...Applicant

Vs.

The State of Maharashtra

...Respondent

WITH

BAIL APPLICATION NO. 3450 OF 2023

Munish @ Rahul Akhilesh Kumar Yadav

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Tabish Mooman, for Applicant in BA/918/2023.

Mr. Aditya S. Raktade with Mr. Sagar Redkar, Meetanshu
Purandare, Dnyanesh Patil, Sumit Vhanbatte, Anup Kamble,
for Applicant in BA/34502/2023.

Mr. S. R. Aagarkar, APP for State.

Ms. Vilasini Balsubramanian, for Respondent No. 2.

Mr. Kiran Gangurde, PSI, Varsowa Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 31st JANUARY, 2024.

PC:-

1) Heard the learned Counsel for the applicants, the learned APP for the State and the learned Counsel for the respondent No. 2.

2) The applicants, who are arraigned in CR No. 18 of 2021, registered with Versova Police Station, for the offences punishable under Sections 366-A, 370 (1) (4) and 372 read with Section 34 of the Indian Penal Code, 1860, Section 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 and Sections 4, 16, 17 and 18 of the Protection of Children from Sexual Offences Act, 2012, have preferred these applications to enlarge them on bail.

3) The indictment against the applicants is that co-accused Nitesh Kumar Thakur, who is absconding, was providing the girls for prostitution and living on the earnings of the prostitution. On 20th January, 2021, co-accused Nitesh Thakur called two victims, one of whom was 17 years of age, at Powai Lake. The applicant – Rajesh Ramfer Verma along with co-accused Vinod Gupta and Nanda Nanaware, also came thereat. Nitesh Thakur informed the victims that they were to accompany applicant – Rajesh and the co-accused to Govinda's Veg Treat

Hotel, 4 Bungalow, Jankidevi Road, S. V. P. Nagar MHADA, Andheri (E), Mumbai and indulge in prostitution. Nitesh Thakur apprised them that another tout namely Munish @ Rahul Akhilesh Kumar Yadav, the applicant in Bail Application No. 3450 of 2023, would call them and they were to indulge in prostitution with the customers brought by the applicant – Munish @ Rahul. They all reached at Govinda's Veg Street Hotel at the instance of the applicant – Munish @ Rahul.

4) Pursuant to an intimation that the applicant – Munish @ Rahul was procuring the girls for prostitution, the police conducted a raid. A decoy customer was sent. The applicant – Munish was apprehended while accepting a cash amount of Rs.5,000/-, by way of advance, from the decoy customer. The co-accused were apprehended. Victims were rescued.

5) The learned Counsel for the applicant – Rajesh submitted that the applicant had no role in the alleged abduction or procuring of the girls for prostitution. On the count of the allegation that the applicant was present along with the co-accused, applicant- Rajesh has been implicated in the said offences. It was submitted that the offences punishable under

POCSO Act are not at all attracted qua the role attributed to the applicant – Rajesh.

6) The learned Counsel for the applicant- Munish @ Rahul submitted that the applicant has been roped in merely on the basis of a statement that the applicant called the victims from mobile phone no. 6306065170. There is no material to indicate that the applicant was using the said mobile number. None of the victims have named the applicant – Munish @ Rahul in their statements recorded under Section 161 of the Code of Criminal Procedure, 1973 (“the Code, 1973”) or the statements before the learned Magistrate under Section 164 of the Code.

7) The learned APP resisted the prayer for bail. It was submitted that there is a transcript of the conversation between the applicant – Munish with the customers, which clearly indicates that the applicant had offered the victims for prostitution. The applicant – Munish was apprehended at the spot while he accepted the amount from the decoy customer.

8) As regards the applicant- Rajesh, it was submitted that the applicant was a member of the gang of touts, who were indulging in the trafficking of the victims and also living on the earnings of

prostitution. Therefore, the applicant – Rajesh also does not deserve to be released on bail.

9) The learned Counsel appointed to espouse the cause of the minor victim also stoutly resisted the prayer for bail. It was submitted that the applicant – Rajesh was involved in transporting the victims from Powai Lake to the said Hotel. Thus, the complicity of the Rajesh can be said to have been *prima facie* made out.

10) I have carefully perused the material on record. The role attributed to the applicant – Rajesh appears to be that of having reached Powai Lake after absconding accused Nitesh Thakur had called the victims thereat. Prima facie, it appears that the victims were sent to the said Hotel by absconding accused Nitesh Thakur. At best, the material on record indicates that Rajesh accompanied the victims to the said Hotel.

11) In the circumstances, whether the applicant – Rajesh was equally complicit in trafficking the victims would be a matter for adjudication at the trial. The applicant - Rajesh is in the custody since 10th February, 2021. The trial may take time. In the circumstances, having regard to the role attributed to the applicant- Rajesh, I am inclined to exercise the discretion in

favour of the applicant. The Court is informed that there are no antecedents of the applicant – Rajesh.

12) So far as the complicity of the applicant – Munish there is material to indicate that the applicant – Munish had instructed the victim to reach the Hotel. He was apprehended at the spot after accepting the money from the decoy customer. In addition there is a transcript of the conversation, which prima facie incriminates the applicant and indicates that the applicant had been procuring the victims / girls for prostitution and living on the earnings of the prostitution.

13) In the aforesaid view of the matter, I find substance in the submission on behalf of the prosecution that there is a strong prima facie case against the applicant – Munish.

14) As applicant – Munish also has been in custody since February, 2021, it may be expedient to request the learned Additional Sessions Judge to commence and conclude the trial in the Sessions Case as expeditiously as possible.

15) Hence, the following order.

: O R D E R :

(i) The Bail Application No. 3450 of 2023 stands rejected.

(ii) The Bail Application No. 918 of 2023 stands allowed.

(iii) The applicant Rajesh Ramfer Verma be released on bail in CR No. 18 of 2021, registered with Versova Police Station, for the offences punishable under Sections 366-A, 370 (1) (4) and 372 read with Section 34 of the Indian Penal Code, 1860, Section 4 and 5 of the Immoral Traffic Prevention Act, 1956 and Sections 4, 16, 17 and 18 of the Protection of Children from Sexual Offences Act, 2012, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the learned Sessions Judge.

(iv) The applicant shall mark his presence at the Versova Police Station on the first Monday of every alternate month between 10.00 am to 12.00 noon for a period of two years or till conclusion of trial, whichever is earlier.

(v) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted

with the facts of the case.

(vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of 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 observations made hereinabove.

(vii) The learned Special Judge seized with Special Case No. 131 of 2020, arising out of CR No. 18 of 2021, registered with Versova Police Station is requested to make an endeavour to commence and conclude the trial as expeditiously as possible.

[N. J. JAMADAR, J.]