

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 841 OF 2024

Jalal Kalimulla Ahmed

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Prabhanjay Dave a/w Ms. Anish Jadhav Advocate for Applicant.

Ms. Kranti T. Hiwrale APP for Respondent State.

API Vishal Rumane, Kasarwadavali Police Station is present.

CORAM : PRAKASH D. NAIK, J.

DATE : 8th APRIL 2024

P.C.:-

1. This is an application for anticipatory bail in connection with C.R. No. I-264 of 2020 registered with Kasar Wadavli Police Station, Thane for offences punishable under Sections 370(2)(3) read with 34 of the Indian Penal Code, 1860 and Sections 3, 4 and 5 of the The Immoral Traffic (Prevention) Act, 1956 (for short "PITA Act"). The First Information Report was registered on 21st October 2020.

2. The case of the prosecution is that, the raid was conducted in the spa on the given date and the decoy witness found in the said place along with some girls, who were rescued and statements were recorded.

3. The applicant had preferred an application for anticipatory bail before this Court. Since, this Court was not inclined to grant relief, the application was withdrawn and disposed off vide order dated 27th January 2021.

4. Learned Advocate for Applicant submitted that, the custodial interrogation of the applicant is not necessary. Section 370 of IPC is not attracted in this case. The co-accused Mohammed Junaid Habibullah Shah was granted regular bail by this Court vide order dated 20th September 2021. While granting bail it was observed that, necessary ingredients of Section 370 being exploitation are conspicuously absent as panchanama does not reveal that, the women were indulged in the act of sexual intercourse. The said accused was granted bail by this Court vide order dated 20th September 2021. The statement of the victim girls were recorded during the course of investigation. Their statements does not indicate that they were indulging in prostitution or that they were exploited in any manner. The applicant was available at his residence. There was no attempt to arrest him. Charge-sheet was filed against co-accused. There is no evidence against the applicant.

5. Learned APP submitted that, the applicant was absconding. He was never available for the purpose of investigation. The previous application for anticipatory bail has been rejected by this Court vide order dated 27th

January 2021. To invoke Section 370 of IPC it is not necessary that the women should indulge in prostitution. The applicant was the owner of the premises. He was aware what was going on in the premises. He was acting in connivance with co-accused. Co-accused was granted bail after his arrest and being in custody.

6. As stated hereinabove, the application for anticipatory bail preferred by applicant before this Court was withdrawn vide order dated 27th January 2021, as the Court was not inclined to grant relief. The applicant is shown absconding in the charge-sheet filed against co-accused. Co-accused Mohammed Junaid Habibullah Shah was arrested and granted regular bail by this court. Raid was carried out in the presence of panchas. Bogus customer was sent inside the spa and co-accused being a manager agreed to provide girls for prostitution and for that purpose rooms were available in the said spa. The prosecution case is that one of the girl was asked to go along with bogus customer for the prostitution. The applicant being licensee was allowed to conduct lawful business. The prostitution was conducted within the premises under the garb of spa. The previous application was disposed off about three years ago. The applicant cannot claim change of circumstances on the ground of charge-sheet filed against co-accused and that the co-accused has been granted regular bail. In spite of the application being rejected on 27th January 2021, the applicant never

made available for the purpose of investigation. Hence, no case is made out for granting relief under Section 438 of Cr.P.C.

ORDER

Anticipatory Bail Application No. 841 of 2024 stands rejected.

(PRAKASH D. NAIK, J.)