



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1955 OF 2023**

Shahnawaj @ Sonu Sayyad Kazi

... Applicant

versus

State of Maharashtra

... Respondent

Mr. Ankesh Thakur with Mr. Charan Penthalia for Applicant.

Mrs. Geeta P. Mulekar, APP for State.

Mr. Nageshwar Balaji Mundhe, PSI, Ambarnath Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 5 FEBRUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant has been arraigned in C.R.No.26 of 2023 registered with Ambarnath Police Station for the offences punishable under Sections 370(2), 370(3) read with Section 34 of the Indian Penal Code and Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.
3. On 10 January 2023, an information was received that the applicant was trafficking girls for prostitution. A raid was conducted. The victim was found in an autorikshaw driven by the co-accused Gagan Umesh Sharma. During the course of investigation, the victim narrated that the applicant had forced her into prostitution and the applicant was living on the earnings of the prostitution.
4. Learned Counsel for the Applicant submitted that the applicant was not

found at the time of the alleged raid. The applicant has been roped in on the basis of a statement which is attributed to the victim during the course of panchanama.

5. Since a submission was made on behalf of the prosecution that there were antecedents of the applicant which bear upon his entitlement for bail, the prosecution was directed to file a copy of the chargesheet. In two cases i.e. C.R.Nos.193 of 20176 and 265 of 2018, the applicant has been arraigned.

6.. Learned Counsel for the applicant submitted that the applicant has been arraigned in this case on the basis of the past cases. The applicant has been released on bail in those cases.

7. Learned APP tendered the statement of the victim recorded under Section 164 of the Code for the perusal of the Court.

8. Prima facie, the victim appears to be 25 years of age. In her statement before the Magistrate under Section 164 of the Code, the victim has not stated that she was forced or induced into the prostitution. On the contrary, she stated that on account of the situation in life, she had resorted to the said act.

9. In view of the aforesaid statement, prima facie, the applicant cannot be arraigned for having forced or induced the victim into the prostitution punishable under Section 370 of IPC. Indeed, there are antecedents of the applicant. However, the nature of the accusation in the instant case and the material which the prosecution presses into service to substantiate the indictment, deserve to be taken into account.

Since the victim has disowned the prosecution version in her statement recorded under Section 164 of the Code, a prima facie case for exercise of discretion is made out.

10. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Shahnawaj @ Sonu Sayyad Kazi be released on bail in C.R.No.26 of 2023 registered with Ambarnath Police Station on furnishing a PR bond in the sum of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at Ambarnath Police Station on first Monday of every 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 the identical activity for which he has been arraigned in this case.

(vi) On being released on bail, the applicant shall furnish his 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.)