

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3717 OF 2023

Ramesh Buddhram Panjabi	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Sunny Waskar a/w. Mr. Shamish Marwadi, for the Applicant.
Ms. Supriya Kak, APP, for the Respondent/State.
Mr. Sanjay Ghag, PSI, Malvani police station.

CORAM : N. J. JAMADAR, J.

DATE : MAY 09, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The applicant who is arraigned in C.R. No. 1263 of 2022, registered with Malvani police station for the offences punishable under sections 366(A), 370(A), 370(3), 372, 376 read with 34 of Indian Penal Code, 1860; sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 and sections 4, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012, seeks to be enlarged on bail.
3. The victim had left her home in Vikramnagar, Dist.Patna, Bihar on account of a quarrel with her mother and came to Mumbai. The victim, then allegedly 17 years of age, was staying with a lady, namely Rani Didi. Another lady Sulekha Didi contacted the victim and asked her to come to the house of accused No. 1 Rosonarabibi Zulfikar, whom the victim called Rosonara Bibi. In the house of

accused No. 1 Rosonorabibi, the victim was allegedly forced to have sexual intercourse with four persons. The victim was paid a sum of Rs. 4,000/-. Some amount was paid by the victim to another lady called Gudia Didi.

4. On 4th November, 2022, the police, upon being informed about the brothel being run at the house of accused No. 1, had sent a decoy customer. The decoy customer was given marked currency notes. The police party conducted a raid. The decoy customer and the victim were found in the room in the house of accused No. 1. The applicant allegedly acted as an agent. The applicant was also found in the house of accused No. 1. A currency note of Rs. 500/- denomination, which was given to decoy customer, was found with the applicant/accused No. 1. The victim was rescued and the applicant came to be arrested on 4th November, 2022.

5. Mr. Waskar, the learned counsel, submitted that the statement of the victim indicates that the victim was 18 years and 7 months of age. Laying emphasis on the statement of the victim, the learned counsel for the applicant submitted that the victim nowhere referred to the presence of the applicant at the time of raid. It was submitted that the applicant has been roped in for being an Agent of accused No. 1 on the basis of suspicion.

6. Ms. Kak, the learned APP submitted that the applicant was

apprehended at the spot when the police party raided the house of accused No. 1. One of the currency notes was found in possession of the applicant. Therefore, the complicity of the applicant can be said to have been prima facie made out. It was further submitted that the applicant was in regular touch with accused No. 1 Rosonarabibi, who was running the brothel.

7. The learned APP further submitted that the investigating agency made an endeavour to contact the victim and her mother so as to record the victim's statement under section 164 of the Code of Criminal Procedure, 1973. The mother of the victim declined to disclose whereabouts of the victim as she had got married.

8. In the aforesaid view of the matter, the application is required to be considered on the basis of material on record, sans the 164 statement of the victim.

9. The statement of the victim recorded on 8th November, 2022 indicates that the victim claimed that she was 18 years and 7 months of age. Prima facie, the offences punishable under section POCSO Act are not attracted. From the perusal of the statement of the victim, it does not appear that the victim refers to the role of the applicant as an agent. Nor she referred to any transaction between the victim and the applicant. If the statement of the victim is perused the question as to whether the victim was forced to indulge

in prostitution would be a matter for adjudication at the trial. At best the allegations against the applicant appears to be that of living on the earnings of prostitution. The applicant has been in custody since November, 2022. As the whereabouts of the victim are not known, it is extremely unlikely that the trial can be concluded within a reasonable period. Having regard to the role attributed to the applicant, further detention of the applicant does not seem warranted.

10. I am, therefore, persuaded to exercise discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant be released on bail in C.R. No. 1263 of 2022 registered with Malvani police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more local sureties in the like amount.

3] The applicant shall mark his presence at Malvani police station on the first Monday of every month between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.

4] The applicant shall not tamper with the prosecution

evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

5] 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.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

7] The applicant shall not indulge in identical activity for which he has been arraigned in this case.

8] 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.)