



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

224

CRM-M-42110 of 2024

DATE OF DECISION :- 03.09.2024

Jyoti @ Tabasum

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Anoop Verma, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.322 dated 18.07.2024, registered for the offences punishable under Sections 3(2) (a),3(2)(b),4,5,6,7 of Immoral Traffic (Prevention) Act, 1956 at Police Station Bhiwani City, District Bhiwani, Haryana.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Dispatch Manager Officer Police Station City Bhiwani. Today I in Vehicle no. HR16GV1920 Driver EASI Ramniwas 599 and staff ASI Satyavan 229, HC Deepak 921, HC Sukhbir 526 were present at Hansi Gate Bhiwani for official work when a particular person told the Deputy Superintendent of Police that



Surya Hotel, Paris Guest House and Galaxy Guest House near Civil Hospital Bhiwani, there are women and girls from outside, including minor girls, who belong to poor families, whose helplessness is being taken advantage of and they are being forced into prostitution. Civil Hospital Bhiwani and Government Girls School are situated around these hotels, Due to which, the environment of the society is deteriorating. All the above mentioned guest house and hotel operators work together and get girls together and show their photos to the customers on each other's WhatsApp number and then take money from the customers and send the girl of their choice for prostitution. They get people into prostitution by giving them space in the above mentioned guest houses and hotels. The owners, operators and working staff of hotels and guest houses are involved in this prostitution trade and share the income of prostitution among themselves. On this information, the District Superintendent of Police office was contacted and informed about providing additional forces from Mahila Police Station Bhiwani and CIA First and Second Bhiwani. After secretly investigating around the above information received from a particular person, the information appeared to be reliable, on which a report was sent through Badast HC Deepak 921 to Bhiwani police station to get the report lodged. After registering the rapat, Copy be should be handed over to HC Deepak 921. At the same time, force ASI Ramesh 623, ASI Sunil 914, L/ASI Urmila 134, LEASI Neelam 895, LHC Kanta 1015, HC Naveen 414, EHC Jaibir 924 driver vehicle no. HR09GV-2009 in which EHC Jaybir was appointed to give two notes of Rs 500/500 to a fake customer with numbers 8KV731032, 9PG832511, LHC Kanta was appointed for videography with mobile camera as per BNSS and from the Second team, ESI Ashok 625, ASI Balbir 21., LASI Babita 108, LEHC Mukesh 514, HC Narendra 1823, Constable Rakesh 1004, HC Krishna 978, EHC Satish Driver Vehicle No.



HR16GV-5282, Fake customer HC Narendra was given two notes of Rs 500/500 with numbers INC970144, 4DF041559 and LHC Mukesh, was appointed for recording with mobile camera for videography as per BNSS. The third team of ASI Anil 1078, LASI Raman 430, EHC Priyanka 298, HC Sumer 997, EHC Amar 873, Constable Padam 901, EHC Rajesh 464, Constable Amit 289, EHC Rajpal 767 Driver Vehicle No. HR16GV-2001 was formed in which fake customer EHC Amar 873 was given two note numbers of Rs 500/500 and EHC Priyanka 298, as per BNSS was appointed for recording with mobile camera for videography. Team no. 1 Surya Hotel and Team No. 2 Galaxy Hotel & Team No. 3. For the raid in front of Paris Guest House Government Hospital, Bhiwani, the fake customers were instructed that as soon as the hotel operator for prostitution receives the numbered notes given by me, then they should inform their team in-charge to conduct the raid by giving a missed call and The team in-charge was instructed to include independent witnesses in the raid at their own level. The Deputy Superintendent of Police along with the other personnel were deployed around the raid to monitor the raid. After some time, team no. 3's in-charge ESI Asok Kumar 625 informed me that the raid was successful. After receiving the information, I reached Paris Guest House. Where in-charge Ashok explained the situation to me and gave me an envelope containing two 500/500 rupee notes totaling 1000 rupees on which four stamps were written GH, one palanda of Rs 5550 on which one stamp was GH and one palanda condom with one stamp GH on it vide Fard Maqbujagi which is also signed by an independent witness. And accused Sombir son of Umed Singh resident of Shiv Colony Bhiwani, Jyoti alias Tabsum wife of Pawan resident of Rakhi Garhi district Hisar and victim woman Halima Khatun daughter of Suraj Ali resident of Niskaar Bitiya Police Station Dhola District Aukam (Assam) were presented. Case Property and documents were taken to the Tehbil and the



accused and the victim girl were kept under the surveillance of the team personnels and incharge of team no. 2 ASI Anil 1078 informed me that the raid has been successful. On this information, I reached the nearby Galaxy Hotel, where ASI Anil gave me two separate pulunda Nirodh, which have the seal of PS and one Palanda numbered note of Rs 500/500, two notes totaling Rs 1000 on which one stamp is PS and one Palanda mobile phone on which one stamp is PS, five Fards on which there are signatures of are independent witnesses and accused Gaurharidas son of Badaldas resident of Abehara Nagar Sahib Nagar. Abhay Nagar District Nadia West Bengal and two victimized women Manju wife of Vijay at present residing at Kot Road Street No. 3 Bhiwani and Neha wife of Akint, resident of Ramnagar, Sonapat were produced. Documents and case property was kept in Tehbil and the accused and the victim women were kept under the supervision of the team personnel for further action. And team no. 1 Incharge ASI Ramesh informed that EHC Jaybir, a fake customer at Surya Hotel, told that the people sitting at the counter had fled through the terrace after realizing the police raid on nearby hotels. But two women were found inside the hotel who gave their name as Nirmala Devi wife of Ramswarup resident of plot no. 241 street no. 4 Guru Nanak Nagar Tilak Nagar West Delhi and Deepti daughter of Veerpal resident of Rajnagar IInd South West Palam Delhi who told orally during inquiry that from them Jai Bhagwan resident of Bhiwani Mo. 7240400505 Takes advantage of their helplessness and forces them into prostitution. On which the Rs 500/500 two number notes given earlier to the fake customer were taken back from ASI Ramesh and the above two victimized women, Nirmala Devi and Deepti, were kept under the supervision of the team personnel. Which the above accused has committed the crime under section 3(2) A and B, 4,5,6,7 of Immoral Prostitution (Prevention) Act 1956. Therefore, this written report is being



sent to the police station though HC Sukhbir 526 for filing charges. The case should be registered and informed with the case number. A special report of the indictment should be sent to the area magistrate and higher officials and another competent officer should be sent on spot for further investigation. I am waiting for the accused along with my staff. Today in front of Government Hospital Bhiwani Shri Ramesh Kumar HPS Bhiwani Deputy Superintendent of Police (M) Bhiwani Dated. 18.07.2024 Time 7.00 PM today Police Station Hasab Aamad Tahrir Badst HC Sukhbir 526 Case No. 322 received from the police station Dated 18.07.2024 u/s 3 (2) A and B, 4,5,6,7 Immoral Prostitution (Prevention) Act 1956 Police Station City Bhiwani registered. xxxxxxxxxxxxxxxxXXXXXX”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 18.07.2024. Learned counsel has further submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that petitioner is a lady, aged about 45 years having no criminal antecedents. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 02.09.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 18.07.2024 and is in continuous custody since then. The rival contention of learned counsel for the parties;



as to whether the petitioner has been falsely implicated into the FIR in question; shall be gone into during the course of trial. The petitioner is stated to be a lady aged 45 years and her bail application ought to be considered in terms of the proviso to Section 480 of BNSS, 2023. While ratiocinating upon this provision (as contained in Cr.P.C, 1973) this Court in the case of ***Ravinder Kaur vs. State of Punjab (CRM-M-11503-2024)***, while relying upon the dicta of a judgment of the Hon'ble Supreme Court in a case of ***Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51***, has granted the concession of regular bail to the petitioner therein, relevant thereof reads as under:

“51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

XXXX XXXX XXXX



58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.”

This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the investigation.

As per custody certificate dated 02.09.2024 filed by learned State counsel,



the petitioner has already suffered incarceration for a period of 01 month and 14 days & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.



10. Nothing said hereinabove shall be construed as an expression of
opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous
application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

03.09.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No