

Order below Exh.5 in Sessions Case No. 187/2021

Soni @ Rani @ Aruna Baban Khichi .. Applicant/
Accused.

Vs.

The State of Maharashtra
through Police Inspector,
Bhadrakali Police Station, Nashik.
(Cr. No.I 96/2021) .. Prosecution

Order below Exh.5.

1. This application has been filed by the applicant/accused under section **439 of Cr.P.C.** for releasing her on **regular bail** in the aforesaid Crime registered at Bhadrakali Police Station, for the offence punishable under sections 363, 366-A, 370, 376(i)(n), 506 r/w. 34 of IPC u/s. 4 of PITA Act and 4, 6 & 12 of the POCSO Act.

2. According to the prosecution case, the FIR was lodged by the mother of the victim girls on 29.03.2021 alleging therein that on 19.03.2021, she herself was admitted in Ghoti Hospital, Igatpuri for operation of her embryulcus. When she returned home around 06.00 pm, she did not find her girls at home. Despite search, they could not be traced. Due to her illness, she could not report the incident to Police Station immediately. After couple of days, she went to the Police Station and informed about missing of her daughters.

During investigation, the Victims were traced and their statements were recorded on 07.04.2021. They revealed that the accused approached them on 19.03.2021 around 01.30 pm and took them with her on the pretext of giving some work such as Beauty Parlour or washing of utensils etc. But instead of providing them work, she took them to a lodge and informed the Customers accordingly. She indulged them in flesh business. In lieu of the same earned Rs.1500/-. She gave Rs.100/- to the victims. On that day, girls didn't return home as they were scared. The accused again took the girls to different customers and continued her business.

Based on the statement of the Victims, crime was registered against the accused vide CR No.96/2021 and the applicant was arrested on 08.04.2021 and since then, she is in judicial custody.

3. The learned counsel Mr. A. A. Pund appearing for the applicant/accused has argued that applicant has been implicated in the false case. She is innocent. There is inordinate delay in lodging the FIR. He further argued that there is no mention of her name in the FIR. There is no evidence showing her link with the crime. She is HIV positive. She is not habitual offender. Except this offence, there are no other offences or crime registered against her. The charge-sheet is already filed and investigation is over and as such, her further detention is not required. She is ready to abide each and every conditions if any

imposed by this Court while enlarging her on bail. Lastly, he prayed for bail to the applicant/accused.

The ld. Defence counsel in support of his contentions has placed his reliance on the reported ruling in the case of **Freedom Firm Vs. Commissioner of Police, Pune**, in Cri. Public Interest Litigation No.04/2015 decided on 30.10.2015 by Hon'ble Bombay High Court and submitted that considering the ratio given in above ruling, applicant be enlarged on bail.

5. The ld. APP Smt. R.Y.Jadhav has strongly opposed the application by filing her written notes of argument vide Exh.7 and thereby stating that the offence is serious in nature. The punishment prescribed for the offence is though less than 10 years but it may extend to life. She was involved in trafficking of minor girls. The applicant by taking disadvantage of the situation and financial condition of the minors, indulged them in the prostitution business. Considering the nature of offence and seriousness, she, prayed for rejection of the bail.

The complainant filed her written say vide Exh.6 and strongly opposed the application. She submitted that if applicant is released on bail, there is danger to the life of her daughters. Hence, prayed for rejection of the application.

6. After going through the arguments of both the sides and having gone through the police papers, documentary evidence produced by the prosecution and the claim of the

applicant that she is innocent cannot be accepted. There are materials to show her involvement. It is prima facie evident from the evidence on record that accused bring the customers to get indulged in forceful immoral traffic with the victims and recover the charges in lieu thereof and have made her main business. Therefore, commissioning of the offence under Immoral Traffic Prevention Act by such people becomes evident. Such type of people enhance the immoral traffic of prostitution which is the act against the society. The apprehension of the prosecution that in case the applicant is released, she would again indulge the victims appears to be justified. The allegations are serious in nature. The authority relied by the defence counsel cannot be considered, considering the seriousness of the offence. Further, no medical documents are placed on record to show that applicant is suffering from HIV positive. Considering the seriousness of the offence, she is not entitled to be released on bail. Hence, following order.

Order

Application stands rejected.

(Smt. S.S. Nair)

Date : 17.02.2022.

Addl. Sessions Judge-4, Nashik.