

MHNS010025582021

*State**Vs.**Soni @ Rani @ Aruna**Baban Khicchi*

**ORDER BELOW EXH.10**  
**IN SPECIAL CASE NO.187/2021**

This is an application taken out by the accused/applicant namely Soni @ Rani @ Aruna Baban Khicchi u/s.439 of Cr.PC. for grant of regular Bail in connection with in Crime No.96/2021 registered by Bhadrakali Police Station, Nashik, for the offences punishable under sections 363, 366A, 370, 376(i)(n), 506 read with section 34 of Indian Penal Code,1860 and under section 4 of PITA Act so also, u/s.4, 6 and 12 of the POCSO Act.

2. The facts of the prosecution case are that, 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 06:00p.m. 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 01:30pm and took them with her on the pretext of giving some work such as beauty parlor 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 homes 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 APP has opposed the application by filing reply and submitted that, the offence is serious one. There is possibilities of pressurizing the witnesses. Hence, APP APP request to reject the application.

4. Read application and reply.

5. Heard advocate Shri.A.A.Pund for accused while APP Gore Madam for prosecution/state.

6. The advocate of accused has argued that, the accused is innocent. The FIR was lodged against unknown person. The police did not find any concrete evidence against the accused. The accused has two daughters aged 7 and 3 years. The accused is behind the bar from last 20 months. Nobody is there to take care of her kids. Moreover, the accused is suffering from HIV. She doesn't get the treatment regularly or on time and, therefore, her health is deteriorating. Further, he has submitted

that the applicant/accused is ready to abide by the condition imposed by the Court. Further, he has argued that, the allegations against the present accused do not show that, those offences are punishable for death or for life imprisonment. Further, he has argued that, the evidence of material witnesses is recorded but, nothing came on record. So also, the possibilities of tampering the witnesses has been reduced. Thus, for all these reasons and on the ground of health and HIV, the applicant/accused request to release on Bail.

7. On the contrary, the APP argued on the line of say.

8. It appears that, at the time of rejection of the first application, there were no medical papers in respect of the disease of HIV of the accused. Now, again victim is suffering from herpes disease. Now, the investigation has been completed so also, charge-sheet is filed. Some of the witnesses are examined. However, some of the witnesses remain to be examined. It may take some time. The accused/applicant has repeatedly filed the application before the Court that she is not getting the proper medical treatment on time and, therefore, her health is not good.

9. Besides this, it appears that, the accused/applicant is in Jail since 09.04.2021 nearabout 20 months, accused is in Jail. The allegations against the present accused are for committing the offence u/s.366, 366A, 370, 506 r.w.sec.34 of IPC. The allegations in respect of the offence u/s.376 of IPC and 4 and 6 of POCSO Act are against the other. The aforesaid offences

against present accused are not punishable for death or for life imprisonment.

10. The advocate of accused has relied upon the guidelines reiterated in the Judgment of Hon'ble Bombay High Court in a case, Appellant Freedom Firm Vs. Commissioner of Police, Pune and Ors., decided on 30/10/2015.

11. It appears that, there are no antecedent against accused nor such report is filed. The applicant/accused does reside within the jurisdiction of this Court. No where it is alleged that previously the bail of applicant was canceled. Further, the guidelines shows that, if bail is applied for on medical ground it is to be seen as to whether medical treatment within the jail is possible. Further, there are no allegations that the accused is likely to have contact with the victim and intimidate or threatened her. Further, there are no allegations that the accused has tried to repeat the offence. Further, the accused is not brothel owner.

12. Thus, considering the disease of the accused and since she may not get proper medical treatment on time as and when required, so also considering the fact that the accused/applicant is ready to abide by the condition, though some of the witnesses are examined. It may take sometime. Considering the facts and circumstances of this case, I am inclined to grant the regular to the present accused on condition. Accordingly, I pass following order,

**ORDER**

- (i) The application Exh.10 is allowed.
- (ii) The accused namely Soni @ Rani @ Aruna Baban Khichi be released on regular Bail in Crime No.96/2021 registered by P.S. Bhadrakali Police Station, Nashik for the offences under sections 363, 366A, 370, 376(i)(n), 506 read with section 34 of Indian Penal Code,1860 and under section 4 of PITA Act so also, u/s.4, 6 and 12 of the POCSO Act. on executing PB of ₹.40,000/- alongwith **one or two** solvent sureties of like amount each.
- (iii) The accused shall not meet the victim and witnesses till end of the trial.
- (iv) The accused shall not tamper or hamper of the evidence of prosecution.
- (v) The accused shall attend the dates of Court regularly and shall co-operate for the trial.
- (vi) The accused shall not leave the Jurisdiction of this Court without the permission of Court till the conclusion of Trial.
- (vii) The accused be released after verification of the sureties by concerned police.
- (viii) The accused shall not repeat such act.
- (ix) Accused shall attend Bhadrakali P.S. on every Sunday in between 10a.m. to 01:00p.m. till conclusion of trial.

Sd/-

Place : Nashik.  
Date : 22/12/2022.

(S.S. Kharat )  
Extra Jt. District Judge and  
Additional Sessions Judge, Nashik.