

ORDER BELOW Exh. 1 IN SPL.(CHILD) CRI. M.A. NO. 188/2013.

This is an application under Sec. 438 of the Criminal Procedure Code for grant of order of release of this applicant on bail, in the event of her arrest.

2] It is submitted this applicant is a married woman having two children and has no concern with any dancing party though her sister Mangal Jadhav is doing such business or running party of that nature. It is submitted only because her name appeared in the name of the Sangit Party, she was named by the victim as if she is the proprietor or owner of the same, but later on she corrected herself and stated that the said lady was Mangal, the sister of this applicant. The learned counsel for the applicant also drawn my attention to the report filed by police to substantiate his aforesaid contention and submitted that this applicant, who is residing in Ahmednagar District, is innocent or having no concern with the alleged crime which was committed by other fellows or her sister, hence she is entitled for the order under S. 438 of the Criminal Procedure Code.

3] Special Public Prosecutor for the State opposed the application saying that this applicant and her sister Mangal both are running that dancing party and they both are hand in glove with each other and had purchased the girl and she was made to dance in their Kalakendra and also facilitated the rape on her by others as victim in her complaint stated.

4] I have perused the papers of investigation produced by the I. O. as well as applicant. In para no.6 of the application itself, it is stated that “ dancing party license stands in the name of Mangal Sangita Nagarkar and victim-Vaishali has read the name of present applicant at the relevant time due to confusion and supplied

information to the complainant, who is social worker and thereafter lodged FIR against the present applicant". The perusal of the statement of the other girl recorded by the police also reveals that the Sangita or this applicant is also involved or have some role, may be active or passive, in running that Sangit party or Kalakendra. The submission made by the learned counsel for the applicant cannot be believed that merely her name is used but she has no role at all and since some years she is residing in Ahmednagar district. The said statement of the applicant herself, the statement of the complainant other witnesses and the documents made it clear that not only Mangal but also Sangita, this applicant both are as stated by the police either partners or proprietors of the said dancing party or business. Thus there is no reason to believe at all that this applicant is falsely implicated by anybody or her name is shown as an accused because of the confusion of the witnesses or the victim. No doubt, to attribute some role to her, there may be confusion because the victim was not knowing personally both these women, but it can be said at this stage both had played some role in the commission of the offence and the offence being serious, as minor girl was purchased for ill purpose and she was made to dance and also raped by other accused. Hence she is not entitled to the protection that can be granted under S. 438 of the Cr. P. C. The application, therefore, deserves to be rejected. Hence following order.

ORDER

The application is hereby rejected.

Pune,

Dated/- 12-12-2013.

(S. D. Darne)
Special Judge, Pune (Under Protection
of Children from Sexual Offences Act, 2012)

"I affirm that the contents of this PDF file Judgment are same word for word as per original Judgment. Name of Steno : Shri. V. V. Bannur, PA. Court Name : Shri. S. D. Darne, District Judge, 01, Pune. Judgment Signed by P.O. on :12-12-2013 Judgment uploaded on :- 30-12-13 Date of PDF file : 30-12-13