

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-BA-67-2020**

Shivanand @ Rajesh Puri ... Applicant

Vs

State of Goa & Anr. ... Respondents

Shri Vibhav Amonkar, Advocate for the Applicant.

Shri Gaurish Nagvenkar, Additional Public Prosecutor for the Respondents.

Coram:- DAMA SESHADRI NAIDU, J.**Date:- 24 NOVEMBER 2020****P.C. :**

The applicant is accused no.3 in Crime No.77/2020, registered by the Crime Branch, Ribander. The applicant faces allegations that attract section 370(3) of the Indian Penal Code, read with sections 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956.

2. As the record reveals, the police conducted a raid on 03.10.2020, based on the information they received that certain persons had been indulging in the trafficking of women. But at the scene of the offence, the applicant was not present, though. Only the first accused was apprehended then. Later, on 05.10.2020, the police arrested the applicant at his residence. It is said to be based on the victim girl's statements. Thus, from the date of his arrest, the applicant has been in judicial custody.

3. After his initial failed attempt before the trial Court to secure a regular bail, the applicant has filed this application.

4. Shri Vibhav Amonkar, the learned counsel for the applicant, has submitted that the applicant has no direct complicity in the crime. If the

entire allegations were to be accepted, the applicant was said to have booked a flight ticket for one of the victim girls from Delhi to Goa. That apart, he has also pointed out that though the raid took place on 03.10.2020, the applicant was not present. He was arrested two days later at his residence. Had the applicant been involved in the crime, he would have evaded the arrest, for he had sufficient advance notice about the registration of the crime.

5. Shri Amonkar has also submitted that the applicant has been in judicial remand for over 50 days and that the police have substantially completed the investigation. That is, viewed from any perspective, as Shri Amonkar points out, the prospects of the applicant's interfering with either the course of the investigation or threatening the witnesses do not arise. Therefore, he has urged this Court to enlarge the applicant on bail.

6. On the other hand, Shri Gaurish Nagvenkar, the learned Additional Public Prosecutor, has vehemently opposed this Court's considering the bail application--at this stage. To support his contentions, the learned APP has pointed out that the second accused has not yet been apprehended. Besides, the victim girls have attributed a specific role to the applicant. To elaborate, he submits that the applicant has not only bought the air tickets for the victim girls but also provided all other logistics, such as accommodation. In this context, Shri Nagvenkar insists that the petitioner has been living on the proceeds generated out of the flesh trade. And that offence attracts punishment not less than ten years, extendable to life imprisonment. So, he wants this Court to dismiss the application.

7. Heard Shri Vibhav Amonkar, the learned counsel, for the applicant and Shri Gaurish Nagvenkar, the learned Additional Public Prosecutor, for the respondents.

8. Indeed, the offence does carry punishment over ten years, and the applicant has been apprehended based on the victim girls' statements. Prima facie, the applicant has provided the logistics, such as his buying a

ticket for one of the victim girls. As to whether he has been making a living out of this immoral traffic, it is a matter of trial. As the crime was registered on 03.10.2020, apparently, the police have substantially completed their investigation, save the fact that the second accused has been at large. That said, we cannot blame the applicant, nor should we let the applicant's right to bail affected by that development: the second accused evading arrest.

9. Indeed, as pointed out by the learned APP, while balancing the competing claims and interests of the accused and the prosecution, this Court must ensure that the applicant should not abuse the process once he is let out on bail. Therefore, to ward off any possibility of the applicant's jumping the bail, or interfering with the course of the investigation, or threatening or inducing the witnesses, this Court can as well put sufficient safeguards. It is indisputable that the applicant is a permanent resident of Goa with no criminal antecedents. Besides, the applicant has already been in judicial custody for close to two months.

10. Under these circumstances, I allow the bail application subject to these conditions:

ORDER

- (i) The application of bail is allowed.
- (ii) The applicant is directed to be released on bail on his executing P.R. Bond for ₹25,000/- and on his furnishing two sureties, each for the like sum, to the satisfaction of the learned Additional Sessions Judge, Margao.
- (iii) The applicant should not leave the State of Goa, without prior permission of the learned Additional Sessions Judge, Margao.
- (iv) The applicant shall cooperate with the police during the investigation and shall attend the hearing of the case on the dates fixed by the trial Court.

(v) The applicant shall not influence, induce, threaten, or coerce the witness; nor should he abuse the process.

(vi) The applicant shall not commit similar or other offences.

(vii) The applicant's failure to abide by these conditions will entail the prosecution to apply for the cancellation of bail now granted to the applicant.

(viii) The Bail Application stands disposed of.

Parties to act on the authenticated copy of this order.

DAMA SESHADRI NAIDU, J.

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