

IN THE HIGH COURT OF BOMBAY AT GOA.

(LD-VC-BA-49/2020)

Monika Roy Applicant.

Vs

The State of Goa and anr. Respondents.

Shri V. Amonkar, Advocate for the Applicant.

Shri P. Faldessai, Addl. Public Prosecutor for the respondents.

Coram:- DAMA SESHADRI NAIDU, J.

Date: 5 October 2020.

PC.

The applicant is the first accused in Crime No.128/2019 on the file of Crime Branch, Goa. She along with two more accused has been charged with the offences under section 373, read with section 34 of IPC, and sections 3, 4, and 5 of the Immoral Trafficking (Prevention) Act.

2. Arrested on 11 November 2019, she applied for regular bail in the second week of December. Pending that application, on 3 January 2020 the police filed the charge-sheet. Eventually, the trial Court, on 28 January 2020, dismissed the bail application. Thus, technically, though the bail application was filed before the police filed the charge-sheet, the trial Court considered it after the charge-sheet came on record.

3. Unsuccessful in her first attempt, the applicant filed the second bail application before the trial Court. The one also met the same fate. The trial Court, it seems, has held that there was no change in the

circumstances. Close to eleven months after her initial arrest, the applicant has been in judicial custody. So the applicant has filed this application under Section 439 of Cr.P.C., before this Court.

4. Shri V. Amonkar, the learned counsel for the applicant has submitted that even if we go by the prosecution's allegations in their entirety, section 373 of IPC does not apply; at the best, sections 3, 4, and 5 of the Immoral Trafficking (Prevention) Act may apply. In this context, he has pointed out that the singular allegation the applicant faced was this: She was collecting money from the prospective customers that came for sexual gratification. Shri Amonkar has also pointed out that the third accused, who owned the building where the alleged offence took place, has already been enlarged on bail.

5. Shri Amonkar, has also pointed out that even the victim-girls, all of whom are over 20 years of age, have stated to the police that it is the second accused that forced them into the flesh trade. Finally, stressing that the applicant, a woman, hails from West Bengal with no criminal antecedents, the learned counsel has pointed out that the applicant has already been in judicial remand for 11 months. So he urges this Court to enlarge the applicant on bail with suitable conditions.

6. On the other hand, Shri P. Faldessai, the learned Additional Public Prosecutor, has drawn my attention to the 'say' the prosecution has already filed. In this context, he stresses that the offence is grave and the applicant has been arrayed as the first accused. He has also pointed out

that the applicant is not a native of Goa; and upon her enlargement, it may be difficult for the prosecution to secure her presence during the trial. Therefor, he urges this Court to dismiss the bail application.

7. Heard Shri V. Amonkar, the learned counsel for the applicant, and Shri P. Faldessai, the learned Additional Public Prosecutor, for the respondents.

8. Indeed, the offence the applicant has been charged with is grave. That said, the record reveals that one overt act has been attributed to the applicant: collecting money from prospective customers. It is not in dispute that the allegations of procuring or forcing the victims into the trade concern the second accused. Besides, the third accused, who is said to have facilitated the crime by letting his house, has already been enlarged on bail.

9. As specifically pointed out by the applicant's counsel, though the applicant hails from West Bengal, the police seem to have already verified her address and also her antecedents. She does not seem to have any criminal antecedents save this crime.

10. Indeed, the applicant was arrested on 11.11.2019 and has still been in judicial custody. First, the police have already filed the charge-sheet. Second, the applicant does not belong to this place. So she may not be in a position to either influence or threaten the witnesses or interfere with the trial of the case.

11. Under these circumstances, I reckon that the applicant deserves to be enlarged on bail subject to the following conditions:

ORDER

- (i) The bail application is allowed.
- (ii) The applicant is directed to be released on bail on her executing P.R. Bond for Rs.10,000/- and on her furnishing two sureties, each for the like sum, to the satisfaction of the learned Additional Sessions Judge, Mapusa.
- (iii) The applicant should not leave the State of Goa without the prior permission of the learned Additional Sessions Judge, Mapusa.
- (iv) The applicant 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 she abuse the process.
- (vi) Upon her release, the applicant should secure a permanent address in Goa and provide it to the police. Until she does so, she must report to the jurisdictional police station once a week.
- (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.

DAMA SESHADRI NAIDU, J.