

(2008) 07 BOM CK 0157

In the Bombay High Court

Case No : Criminal Application (Bail) No. 145 of 2008

Shri Ramesh Shetty

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 08-07-2008

Acts Referred:

Immoral Traffic (Prevention) Act, 1956 — Section 3, 4, 5, 6, 7
Penal Code, 1860 (IPC) — Section 201, 342

Citation : (2008) 07 BOM CK 0157

Hon'ble Judges : N.A. Britto, J

Bench : Single Bench

Advocate : Arun Bras De Sa, for the Appellant; Winnie Coutinho, Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

N.A. Britto, J.—Heard Mr. Arun Bras De Sa, learned Counsel on behalf of the Applicant and Ms. Winnie Coutinho, learned Public Prosecutor on behalf of the Respondents. The Applicant herein was arrested on 30-3-2008 in connection with the investigations of Crime No. 16/2008 registered against him and others under Sections 3, 4, 5, 6 and 7 of the Immoral Traffic(Prevention) Act, 1956, Section 342 I.P.C. and Section 8 of the Goa Children's Act, 2003. The Applicant approached the Children's Court for bail but his application came to be rejected first by Order dated 8-5-2008 and then by Order dated 30-5-2008. As such the Applicant has approached this Court, for bail.

2. The Applicant is the Manager of Damodar Lodge, situated at Old Railway Station, Margao. The case of the Respondent is that they had received information that the Applicant had procured girls from outside Goa for the purpose of prostitution and had confined them in one of the rooms at the said Damodar Lodge, Margao. When the said Lodge was raided on the same day at about 16.30 hours, the Applicant was found at the reception and introduced himself as the Manager of the said Lodge. One Mohammed Salim Shaikh/A-2 is

the room boy and he was directed to show the rooms to the raiding party. All the rooms were checked except one which was found locked, with a pad lock and on questioning the said Mohammed Salim Shaikh/A-2, he informed that he did not know anything about the said room, whereupon the Applicant was questioned but could not give satisfactory reply, at which time a male person approached the counter and asked the Applicant for a girl for prostitution, upon which, the Applicant remained quite and upon asking the customer's name, he disclosed his name as Nasirullah and after continuous questioning of the Applicant, the Applicant removed the key from his pant pocket and thereafter opened the pad lock with the said key and inside the said room, five females were found and thereafter the said females were separately interrogated and they disclosed that they were brought by the Applicant on the pretext of providing jobs to them and were detained and confined in the said room and forced into prostitution against their will and the Applicant was collecting money, being the earnings of the prostitution.

3. It appears that the said Mohammed Salim Shaikh/A-2 was ordered to be released on bail by the learned Children's Court on 19-5-2008 and likewise the said Nasirullah was released on bail on 5-4-2008 by the learned J.M.F.C. The owner of the Lodge by name Umesh Churi was also arrested subsequently on 10-4-2008 and was later released on bail on 22-4-2008, by the Children's Court.

4. Presently, the said five females were produced before the S.D.M., Margao as per the provisions of Section 17(3) of the said Act and since then they have been detained in their Protective Home Cum Reception Centre at Mercas, Goa. One of the said females was also subjected to examination of her age and it has been opined that she is above 16 years and below 18 years and, apparently, it is only thereafter that Section 8 of the Goa Children's Act, 2003 was added to the crime which has been registered.

5. The learned Children's Court in deciding the first application on 8-2-2008 noted that the accused had committed an offence which was serious and there was also danger of the accused absconding and there was also possibility of interference with the investigations. The learned Children's Court noted that subsequently another offence u/s 201 I.P.C. was registered against the Applicant and therefore the Applicant was not entitled for bail.

6. Admittedly, charge-sheet has already been filed against the Applicant and other accused. Learned Counsel on behalf of the Applicant submits that the ages of all the females mentioned in the First Information Report show that none of them were children, all being above 18 years of age and therefore the provisions of Section 8 of the Goa Children's Act, 2003 would not be attracted. Learned Counsel further submits that since the owner of the said Lodge has been admitted to bail, the Applicant being the Manager could also be entitled to be admitted on ground of parity. Admittedly, at the time of the raid the said females were found confined into a room which was locked and was under the control of the Applicant who was the Manager of the said Lodge and in a situation like this,

his case could not be compared either with the case of the room boy or the owner of the Lodge. The statements recorded of the victims show that they were brought with the promise of providing jobs but they were forced into prostitution. Although, the ages of the females were mentioned in the F.I.R. showing them above 18 years of age, the fact remains that subsequently the age of one of the victims has been assessed to be above 16 and below 18 years which prima facie would indicate that an offence u/s 18(2) was prima facie committed by the Applicant in relation to the said girl. An offence u/s 6 of the Immoral Traffic(Prevention) Act, 1956 it is punishable with imprisonment of either description for a term which shall not be less than 7 years but which may extend to 10 years and which may be for life and also to fine. Likewise, an offence u/s 18(2) of the Goa Children's Act, 2003 is made punishable with minimum punishment of which shall not be less than 10 years but which may extend to life and also liable to fine of Rs. 2000/-. Considering the offences in which the Applicant is involved which are serious in nature for which punishment is provided is severe, this would not be a fit case to admit the Applicant to bail.

7. Reliance placed on behalf of the Applicant in the case of Anthony Britto v. State of Goa(2007 ALL MR(Cri) 1950) would not be applicable to the facts of this case. In view of the above, the application for bail is hereby rejected.