

Court No. - 72

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**Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22149
of 2021**

Applicant :- Akash

Opposite Party :- State of U.P.

Counsel for Applicant :- Sohan Lal Yadav, Smita Singh Deo

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh, J.

1-By means of this application, applicant, who is involved in Case Crime No. 144 of 2021, under Sections 370-A(2), 376D, 342, 34, 506, IPC, Sections 3, 4, 5, 6, 7(1)(a), 7(2)(b), The Immoral Traffic (Prevention) Act 1956 and Section 5/6 Protection of Children from Sexual Offences Act, police station Sector 24 NOIDA, district Gautam Budh Nagar, seeks enlargement on bail during the pendency of trial.

2-As per the prosecution case, in brief, first information report has been lodged on 28.02.2021 by Sub-Inspector Manoj Kumar in respect of occurrence, which took place on 27.02.2021 for the offence under sections 370-A (2), 376, 342, 34, 506 IPC, sections 3, 4, 5, 6, 7(1)(a), 7(2)(b), The Immoral Traffic (Prevention) Act 1956 and section 3/4 of Protection of Children from Sexual Offences Act, against seven accused persons, namely, Vishal Kamboj, Vipul alias Mitthu, Rajan Shah alias Rajan Gupta, Rizwan, Dayal, Sumit Kumar and Akash (applicant), alleging inter alia that on the information received from the informer that prostitution is being done by taking three girls hostages in a building situated at I-24 Sector 12 NOIDA, which was used as Hotel/Guest House, a raid was conducted by joint team of police force and Anti-Human Traffic Unit. The F.I.R. further alleges that accused persons, Vishal Kamboj, Vipul alias Mitthu, Rajan Shah alias Rajan Gupta, Rizwan,

Dayal, Sumit Kumar and Akash have been arrested from the place of occurrence and four girls have been freed from their captivity, who have stated before the police that the accused persons were forcibly indulged them in the prostitution and also committed rape upon them. The accused persons have disclosed that the owner of the building is one Kirti Trivedi. The accused persons have stated before the police that they have indulged in the activities of forcible prostitution done by aforesaid four girls in the said building. The recovered materials from the rooms of the alleged building, were sealed and arrest memo of the accused persons was prepared by the police at the spot. The aforesaid four victims after conducting medical examination were sent to Women Rehabilitation Centre.

3-Heard learned counsel for the applicant, Mr.Virendra Kumar Maurya learned Additional Government Advocate assisted by Mr. Rajmani Yadav, learned Brief Holder representing the State and perused the material placed on record.

4-It is argued by learned counsel for the applicant that the applicant is absolutely innocent and has falsely been implicated in the present case with some ulterior motive. It is further submitted by learned counsel for the applicant that applicant has started doing job in the said building/guest house prior to one week of the alleged occurrence. He does not have any knowledge that in the said building the girls have been forcefully indulged in doing prostitution by the other accused persons. The allegation of committing rape upon the victims is false. The victims in their statements did not make allegation of forceful rape against the applicant. Other co-accused of this case are main accused and his case stands at a different pedestal. There is no recovery from the possession of the applicant. It is also submitted that the applicant has no criminal

antecedent to his credit and is facing detention since 28.02.2021. It is next contended that there is no chance of the applicant of fleeing away from the judicial process or tampering with the prosecution evidence. Learned counsel for the applicant lastly submitted that if the applicant is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

5-Per contra, learned Additional Government Advocate vehemently has opposed the bail prayer of the applicant by contending that:-

(i)-on a raid conducted by joint team of police force and Anti-Human Traffic Unit, all the seven accused persons including the applicant were apprehended along-with four girls/victims from the aforesaid building, which was used as Hotel/Guest House.

(ii)-recovered girls have stated before the police that they were forcibly indulged into the prostitution by the accused persons.

(iii)-victim Neeru, aged about 17 years in her statements disclosed inter-alia that she is resident of Bihar. She came in the contact of co-accused Rajan through Keshav Thakur and Manish Patel, who were her school mates. She on account of love affair with co-accused Rajan left her house on his insistence and came at NOIDA with him in December 2020, where Rajan married her and made physical relation with her. She had stayed at hotel for about two months, thereafter Rajan compelled her for prostitution and started sending new customers in her room for making sexual relation with them, who have forcefully committed rape on her. Other employees were also aware about the prostitution and they also made physical relation with her. They also used to send her out to their customer's place to satisfy their lust. On making

resistance, Rajan tried to kill her. On getting a chance, she told everything to the police. She in her second statement has also stated that Rajan Shah alias Rajan Gupta, Mitthu, Vishal, Rizwan, Santosh, Pintu, Dayal, Sumit and Akash (applicant) used to commit forceful rape on her.

(iv)-victim Sneha has stated *inter-alia* that she is a resident of district Muzaffarnagar. She was called by co-accused Rajan Gupta and Vishal through escort service on the pretext of modeling. Victim Dimpi and Meethu stated *inter-alia* that they are resident of West Bengal. They were called by co-accused Rajan Gupta and Vishal through escort service for giving massage service at NOIDA, but on reaching there, they were held hostage by the accused persons and by extending threat enmeshed them in the prostitution /flesh trade. They also alleges that co-accused Rajan Gupta, Vishal Kamboj and Vipul @ Mitthu committed rape on her and enmeshed them into prostitution. They used to send them out to make sexual relation with new people and in the rooms of hotel also all the accused persons including the applicant compelled them to make sexual relation with their customers giving threat to their life.

(v)-on coming into light some new facts during investigation, second statement of the victims under Section 161 Cr.P.C. were also recorded to elicit the truth. One Kirti Trivedi is owner of the guest house in question, which was taken by co-accused Vishal Kamboj on rent. Co-accused Vipul @ Mitthu is manager, Dayal is cook, Sumit and Akash (applicant) were employed for house keeping work and Rizwan is caretaker of the building/guest house. The girls were brought by Rajan Shah @ Rajan Gupta and Vipul @ Mitthu in the guest house for the purpose of prostitution alluring them adopting different *modus-operandi*. All the accused persons have made forceful sexual

relation with the victims. They snatched their mobile phones and kept with them. On making protest by the girls, they used to beat them. Recovered girls had been trafficked and forcibly kept in the guest house against their wishes and were forced into prostitution.

(vi)-it is also pointed out that accused persons in their statements under Section 161 Cr.P.C. have also confessed that they were indulged in the immoral traffic activities/ sex trade. Prostitution was allowed in the hotel rooms and big customers were given a better deal. Co-accused Vishal Kamboj disclosed that the building in question was taken by him on rent at the rate of Rs. 70,000/- per month and they used to charged Rs. 2,000/- to 5,000/- per hour for a girl in the hotel/ Guest house and upto Rs. 35,000/- for two hours, on sending the girls out of hotel at the customer's place. Customers were charged heavily for providing cigarette, hukka, liquor, bear etc. in the hotel and they earns much more by illegal act of prostitution. Guest house workers including applicant were being paid Rs. 15,000/- per month. It is further submitted that victims have been rescued from the clutches of the accused and handed over to their family members. The Charge sheet has been submitted in this case against the applicant and co-accused and it cannot be said that accused persons were unknown of the consequences of their act, ergo the innocence of the applicant cannot be adjudged at pre trial stage. Lastly, it is submitted that in case, the applicant is released on bail, he will misuse the liberty of bail. Considering the facts and circumstances of the case, the applicant does not deserve any indulgence, as the offence is against the society.

6-Having heard the argument of the learned counsel for the parties, I found that the applicant was caught by the police from

the guest house along with other co-accused of this case. Victims were also recovered at that time. As per the statements of the victims, all the accused persons in collusion with each other were deeply involved with their different role in getting the prostitution done in the guest house. There is specific allegations of immoral activities against all the accused persons of this case. Victim Neeru in her second statement under Section 161 Cr.P.C. has also levelled allegation of making forceful sexual intercourse/rape on her against the applicant along with other co-accused. The victim Sneha, Dimpri and Meethu also clearly stated that co-accused Dayal, Sumit, Akash (applicant) and Rizwan, have also compelled them for prostitution by extending threat. All the recovered girls/victims have stated that they were detained in the said premises for the purpose of prostitution and they have been sexually exploited by the accused persons for commercial purposes. The applicant was having knowledge about immoral traffic activities/prostitution and was deliberately engaged in facilitating the sex trade in the public place.

7-Immoral trafficking activities are a very complex and multidimensional phenomenon. Recovery of innocent victims is a long, painstaking and dexterous process, hence it requires a multidisciplinary approach. Human trafficking and immoral activities are an organized crime and are done adopting different *modus-operandi* by a group of persons with their different role extending full cooperation to each other for illegal pecuniary benefits. Hotel and restaurant workers are paid additional amount in such matters for keeping mum and facilitating sex trade. Prostitution has connotations of criminality and immorality. Though there are various factors behind the increasing trend of immoral activities, but in majority cases, the innocent girls/victims got involved in sex

trade/prostitution fraudulently against their wishes creating an atmosphere of terror by the antisocial elements and on account of their high connections, influences, money and muscle power, generally a common men do not dare to raise voice against them. The daughters are pride and honor of the family in a civilized society. The sudden disappearance of girls and their remaining untraced for a long period of time causes pain and trauma to their families throughout. Such people who are enmeshing the innocent girls into prostitution/sex trade for their pecuniary gain, instead of empowering them not only ruin whole life of the victims, but also take away the happiness of victim's family. Such incidents are being increased day by day. This Court is of the view that such persons, who are involved in immoral trafficking activities also cause a deleterious effect on the society as a whole. They are hazardous to the civilized society at large, and therefore, in order to control and eradicate this proliferating and booming devastating menace, such persons are not entitled for any sympathy in the criminal justice delivery system.

8-In view of above considering the facts and circumstances of the case, submissions advanced on behalf of parties, gravity of the offence and severity of the punishment, I do not find any good ground to grant bail to the applicant. Accordingly, the bail application is **rejected**.

9-However, it is made clear that the observations contained in the instant order is confined to the issue of bail and shall not effect the merit of the trial.

10- Office is directed to send the copy of this order to the informant and concerned Court below within two weeks.

Order Date:-10.8.2021 / Sunil Kr. Gupta