



243

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM M-26365-2024 (O&M)
Date of Decision: 03.07.2024



.....Petitioner

Versus

U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Viren Sibal, Advocate,
for the petitioner.

Mr. Amit Jhanji, Sr. Advocate (Standing counsel for UT-Chd.)
with Ms. Eliza Gupta, Advocate.

Ms. Simsi Dhir Malhotra, APP, UT Chandigarh.

MAHABIR SINGH SINDHU. J.

Present second petition has been filed under Section 439 of Code of Criminal Procedure, 1973 for seeking bail pending trial in FIR No.184 dated 12.07.2023 registered under Sections 3, 4, 5, 6, 7 of Immoral Prevention Trafficking Act, 1956 (for short 'Act') and Section 370 and 120-B IPC, at Police Station, Sector 36, Chandigarh.

2. Status report dated 03.07.2024 by way of affidavit of Sh. Charanjit Singh Virk, SDPO South West UT Chandigarh filed on behalf of respondent-UT-Chd. is taken on record. Registry to tag the same at appropriate place.

3. Aforesaid FIR was registered on the basis of secret information received by DSP Charanjit Singh Virk, S.D.P.O. (South West), U.T. Chandigarh and translated version of the same, as appended with the petition, reads as under:-

“Sir, it is requested that today I, DSP with my personnel staff was present in area of Police Station Sector-35/C, CHD for checking. When we reached near KFC Market, Sector-35, CHD,



suddenly & coincidentally, Inspector Om Parkash SHO PS-36, SI Naveen Kumar I/C 43, L/SI Asha along with Sr. L/C Manpreet Kaur 3411/CP, L/C Shalinee 4503 /CP, C Sunil 4901/CP, C Hansraj 3994/CP, C Sandeep 4974/CP, C Narender 6641/CP met us. When I, DSP was just inquiring from the said employees, suddenly & coincidentally at around 07:30 PM, one secret informer met us and informed that Ganga Spa SCO No. 437/438 owned by Charles, Mobile No.9779508810 & 9815463629, is running a Brothel in the name of Ganga Spa along with his managers Shally and Gaurav and they provide girls for wrong work / sex in the name of massage to their customers. The girls live in the Spa Centre and charge Rs. 2,000/- per customer and earn their livelihood with this money. If search is conducted, they can be apprehended. Believing the information to be true, I, DSP requested the passerby to join as independent witnesses, but they left the spot without disclosing their names or addresses. Thereafter, I, DSP instructed to call the Women help line team to Ganga Spa. Then I, DSP nominated C Sandeep 4974/CP as and C Hansraj 3994/CP who were already in civil dress as shadow witness. Then I DSP conducted a search of the bogus customer C Sandeep, from whom nothing objectionable was recovered. After conducting search, memos were prepared and signatures of witnesses were obtained. Then I, DSP took out four notes of the denomination of 500 rupees (Indian currency note) numbers (1) 4ME201572 (2) 4EE143788 (3) 2UD701880 (4) 1DM015265 from my pocket and handed them over to C Sandeep, bogus customer. Signature of witnesses were taken while preparing memo and instructions were also given to C Hansraj who is Shadow Witness to go to the Spa Centre with the bogus customer C Sandeep and after making payment, when their deal will be final, to make a gesture from suitable distance for the raiding party i.e. turn his right hand over his head. Accordingly, the bogus customer and shadow witness left for Ganga Spa Centre and raiding party along with myself started waiting for the signal of Shadow Witness from a suitable distance. Around 08.00 P.M. when Shadow witness C. Hansraj made the gesture, on which I, DSP along with raiding



party left for Ganga Spa Centre, SCO No. 437/438, Sector- 35, Chandigarh and when we reached there a woman including bogus customer and a person who introduced herself as Kimlia @ Shally D/o Lalal R/o H.No. 764, Sector-77 Mohali, PB Age-27 Years and Gaurav S/o Satish Kumar R/o H.No. 2370, Sector-25/D, CHD Age-21 years. Then bogus customer told me that this boy Gaurav had struck the deal in Rs.2000 and showed 5 girls inside a room for having sex and Gaurav kept Rs.1000 out of Rs.2000 with him and gave rest of the amount to manager Shally, on which I, DSP searched Gaurav's clothes, through C. Sunil 4901/CP. On search, two Rs.500 notes numbered (1) 2UD701880 (2) 4EE143788 were recovered from right pocket of pants worn by Gaurav, which are the same numbered notes that I, DSP had given to the bogus customer. Police took possession of both the notes as evidence and recovery memo was prepared. Keeping in mind that manager Shally @Kimlia is a female, I DSP instructed L/C Manpreet Kaur and L/SI Asha Devi to take her aside and conduct search. Two Rs.500 notes numbered (1) DM015265 and (2) 4ME201572 were also recovered from right pocket of trouser worn by her, which were same numbered notes given by me to bogus customer and taken into possession as part of evidence. At this time, WCHL Team's counsellor Vaishali Sharma along with her team member Simranjit Kaur reached the spot and after explaining the situation, she was associated in the investigation. When I, DSP started checking the Spa along with raiding party, 'busy' board was found hanging outside room no. 4 & 5 and there were total 8 rooms in the Spa. On opening Room No. 4, I DSP found that a person and a girl were in objectionable naked condition and having sex. On asking, the person disclosed his name Deepak S/o Rajkrishan R/o H.No. 1147, Sector-125, Mohali, PB Age-45 years and the girl revealed her name as 'A'. When we opened and checked Room No. 5 as well, another person was found in objectionable condition having sex with another girl. On asking, he revealed his name and address as Vijay S/o Lekhraj R/o H.No. 106, Lakkar Colony, Una, HP, Age-41 years and the girl told her name as 'B'. On further checking, 05 girls were found inside a room, outside which "Staff



room” was written. On asking, they revealed their names and addresses separately, and were assigned C, D, E, F & G of English alphabets, respectively. All the five girls stated that the managers of this Spa are Gaurav & Shally, whereas, owner is Charles (Mobile Nos. 9779508819 & 9815463629), who on the pretext of getting work and job, brought them here and tricked into prostitution. The owner of this Ganga Spa, Charles, along with his managers Gaurav & Shally @ Kimlia, earns huge amount of money by promising jobs etc. to the innocent girls. They have committed an offence under Section 3, 4, 5, 6, 7 of Immoral Prevention Trafficking Act 1956 and Section 370, 120B IPC. So, case be registered against 1) Gaurav 2) Shally @ Kimlia 3) Deepak 4) Vijay 5) Charles (Owner). After that, a permanent number of the FIR be informed. I, DSP is busy in further investigation. From Ganga SPA Centre SCO No. 437, 438, 1st Floor, Sector-35, CHD Sd/- Chanranjit Singh SDPO/SW, Dt. 12.07.23 at:- 09:15 PM.”

4. It is contended by learned counsel for the petitioner that he has been falsely implicated as petitioner was neither present at the time of alleged occurrence; nor any incriminating material is recovered from him. Further contended that search was conducted in contravention of the provisions of Section 15(2) of the Act, as no inhabitant of the locality was joined during search operation. Again contended that petitioner is running Ganga Spa Centre since March, 2021 and there had been no complaint whatsoever, by the authorities at any time. Further contended that victims have submitted their respective affidavits (P-9 colly.) to the effect that police pressurized them for making false statements against the petitioner. Lastly contended that petitioner is in custody since 15.09.2023; report under Section 173 Cr.P.C was presented on 14.11.2023; and thus, and no useful purpose would be served by his further incarceration.



5. *Per contra*, learned Senior Standing counsel appearing for Union Territory, Chandigarh, submitted that petitioner is running Ganga Spa Centre from leased premises, where illegal trafficking was going on. Further submitted that petitioner was well aware about all the activities going on, in the Centre; thus, he is accountable for the same, being its owner. Also contended that police have collected sufficient materials from the spot, which indicate that petitioner is the kingpin, who lured innocent girls and using them for illegal activities. Opposing the claim of petitioner regarding affidavits of the victims, learned Senior Standing counsel for the U.T. submitted that despite being in custody, petitioner is influencing the prosecution witnesses as he has procured the affidavits from victims under undue pressure, therefore in case released on bail, he shall hamper the trial. Also submitted that at the time of conducting search, an application was moved by member of the raiding party for seeking arrest of Supervisor-Kimlia @ Shally; which was allowed by learned Judicial Magistrate First Class, Chandigarh, vide order dated 12.07.2023 and during investigation, she stated that it is the petitioner, who is running illegal activities. Lastly submitted that during search, police tried to join respectable person(s) from the locality, but no one came forward; hence, there is sufficient compliance of Section 15(2) of the Act.

6. Heard learned counsel for the parties and perused the paper-book.

7. Present FIR was registered on the basis of some secret information received by Deputy Superintendent of Police, S.D.P.O (South-West), Sector 36, Chandigarh. Police papers indicate that immediately, Women Helpline Team was called on the spot and thereafter, raid was conducted by the police in Spa Centre run by the petitioner consisting of total 08 rooms. On checking, 'busy' board was found hanging outside room Nos.4 & 5 and upon opening, one  and a girl were found in objectionable naked condition, having sex.



Same was the situation in Room No.5, where one [REDACTED] was found in objectionable condition having sex with another girl. On checking “Staff room”, 05 more girls were found inside.

In total 04 persons were arrested on the spot. All the victims were sent to Nari Niketan, Sector-26, Chandgiarh with the help of Women Helpline Team. During investigation, rescued girls stated that they were brought from Jalandhar by the petitioner for doing body massage, but later on enticed them for illegal trafficking.

8. The argument of learned counsel for petitioner that search was illegal, as no one from the locality was associated, is not acceptable for the reason that people from the locality were requested to join the proceedings, but none came forward. Also discernible that Women Helpline team was associated at the time of search; thus, there is sufficient compliance of the provisions of Section 15 of the Act.

Moreover, it is not in dispute that charges have already been framed on 17.02.2024 and trial is pending for recording prosecution evidence. Thus, the point of Section 15(2) of the Act would be a matter of trial, after leading evidence by both sides. Above all, there is no allegation that petitioner has been falsely implicated at the behest of someone or by the police.

9. In view of the above, this Court is of the opinion that in case petitioner is released on bail, he shall hamper the trial and the possibility of influencing prosecution witness(s) cannot be ruled out.

10. Consequently, there is no option, except to dismiss the petition.

11. Ordered accordingly.

12. The observations made above be not construed as an expression of opinion on the merits of case in any manner; rather confined only to decide the present bail matter.



13. Pending application(s), if any, shall also stand disposed off.

03.07.2024
SN/adhikari

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No