

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6193 OF 2015
IN
CRIMINAL APPEAL NO. 848 OF 2015

Naziya Begum W/o Shaikh Afazal
Age 33 years, Occu.: Household
R/o Aziz Colony, Naregaon,
Aurangabad

.. Appellant

Vs.

The State of Maharashtra

.. Respondent

Mr. S.P. Tilve, Advocate for the applicant/appellant
Mr. N.T. Bhagat, A.P.P. for the respondent/State

CORAM : M.T. JOSHI, J.

RESERVED ON : 07/01/2016
PRONOUNCED ON : 11/01/2016

ORDER :

Heard.

2. The present appellant/applicant, who has been convicted by the learned Additional Sessions Judge, Aurangabad vide judgment and order dated 28/10/2015 passed in Sessions Case No. 328 of 2014 for the offences punishable under section 109 r/w. 17 of the Protection of Children From Sexual Offences Act and sentenced to suffer rigorous imprisonment for 7 years and to pay a

fine of Rs.2000/-, is seeking for suspension of the substantive sentences and her release on bail during the pendency of the present appeal.

3. The prosecution case is that the present applicant had obtained one house on rent and converted it into a brothel home. The people in the neighbourhood were therefore agitated. Ultimately, on 17/8/2014, they compelled to open the door of the house by knocking it while the illegal activity was going on and also made a phone call to the Police. The Police arrived at the spot. Accused no.1 – Ganesh was disclosed to be the customer, who had had sexual intercourse with the victim – PW1. She was found to be below 18 years of age. Her evidence would reveal that she and her mother were estranged by her father. Therefore, when she was in search of a gainful job, accused no.2 lured her to work with the accused no.3 i.e. the present appellant/applicant. She however was sent in the room and to have sexual intercourse with various customers on earlier 4-5 occasions and on the date of the incident with the accused no.1. All the accused including the present applicant were on the spot, and as such were

arrested by the Police.

4. Before the learned Additional Sessions Judge cum Special Judge, Aurangabad, in all 10 witnesses were examined. They included the victim, the panch witnesses, the owner of the house. The learned Additional Sessions Judge found that the case is proved beyond reasonable doubt and hence the conviction, as detailed supra came to be recorded.

5. Mr. S. P. Tilve, learned counsel for the applicant advanced oral arguments as well as has filed his written notes of arguments. His thrust of argument is that while the name of the present applicant/original accused no.3 is Naziya Begum W/o Shaikh Afazal, according to the witnesses, that lady was Shammu Begum or Shannu Begum. Even according to the owner, he had no direct contact with the said Shammu Begum or Shannu Begum but through another person, the room was rented. He further submitted that there was no identification of the applicant.

6. Learned A.P.P. on the other hand submitted that the present applicant was caught red handed in the

premises in presence of the panch witnesses and since the date of the said incident, she was in custody, as she was not released on bail. In the circumstances, there is no question of mistaken identity. He further submitted that the learned Additional Sessions Judge has come to the conclusion that the present applicant was running a brothel home, wherein the minor girls were lured for sexual exploitation. In the circumstances, he submitted that the application be dismissed.

7. Upon hearing both sides, in my view, considering all the above facts, the applicant cannot be released on bail, however, as the applicant/appellant would be in jail, hearing of the Appeal can be expedited. In the circumstances, the following order:-

8. Criminal Application is hereby dismissed. Hearing in the Criminal Appeal No. 848 of 2015 is expedited.

[M.T. JOSHI]
JUDGE

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