

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

REVISION APPLICATION NO.520 OF 2015

Maina Khatun Saiful Islam .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Arun Rajput i/b. Ms Anjali Patil, Advocate,
for the Applicant

Mr.A.S.Shitole, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 18.07.2016

P.C.

. At the outset, learned counsel for the Applicant seeks leave to amend. Leave granted. Amendment to be carried out forthwith.

2. Heard learned counsel for the Applicant and the learned counsel for the Respondent – State.

3. Rule. Rule is made, returnable forthwith with the consent of the parties and is taken up for final disposal at the stage of

admission .

4. Learned APP waives service on behalf of the Respondent – State.

5. By this Application, the Applicant seeks quashing and setting aside of the order dated 10.09.2015 passed by the learned Metropolitan Magistrate, Special Court for ITPA, 54th Court at Mazgaon, Mumbai in R.A.No.67/2015 and the order dated 26.10.2015 passed by the learned Additional Sessions Judge, Greater Mumbai in Cri.Appeal No.836 of 2015 and prays that she may be released from the Mahila Probation Home, Namkum, District-Ranchi (Jharkhand), where she is presently detained.

6. The Applicant (Victim girl) was rescued by the D.B.Marg Police Station along with other victim girls, in a raid which was conducted in C.R.No.209 of 2015. The victim girls (including

the Applicant) were produced before the learned Metropolitan Magistrate. Some of the victim girls were released, whereas some were detained (the applicant being one of them). The learned Metropolitan Magistrate, 54th Court, Special Court for ITPA, Mazgaon, Mumbai, vide order dated 10.09.2015 was pleased to detain the Applicant at any state run or state recognized rescue homes or NGO of Jharkhand for a period of one year for her care, protection, shelter & training in some vocational course. After the detention period was over, direction was given to the Superintendent of any state run or state recognized rescue homes or NGO of Jharkhand to re-integrate the victim with her family, after doing home investigation and help her in very possible way to rehabilitate her.

7. Learned counsel for the Applicant submits that the Applicant is aged 24 years and is unmarried. He submitted that as the

Applicant's mother had expired, her father had re-married. He submitted that the Applicant is ready to give an undertaking that she will not indulge in similar activities in future. He further submits that the Applicant is competent and capable of looking after her own needs. He submits that her cousin sister is ready to take her custody.

8. As there was a dispute whether the Application was filed by the Applicant or not, learned APP was directed to record the statement of the victim girl i.e. the Applicant, who was lodged at the Mahila Probation Home, Namkum, District-Ranchi (Jharkhand). Accordingly, the statement of the Applicant (victim girl) is recorded. She has stated that she has filed the aforesaid Revision Application in this Court and had sought her release from the said Mahila Probation Home, Namkum, District-Ranchi (Jharkhand) so that she can stay with her

relatives at Mumbai. Learned APP has produced the said letter dated 17.06.2016 sent by the Supdt., Mahila Protection Home, Namkum. The said letter is taken on record. According to the learned APP, the Applicant was given vocational training when she was in Navjeevan Mahila Vastigrah and was taught to make paper bags etc. Learned APP has not brought any material on record justifying her detention.

9. Perused the papers. Investigation is complete and charge-sheet is filed. It appears from the statement of the Applicant (victim girl) that she was not forced or compelled into prostitution by any person. The Applicant is a major and capable and competent to take care of herself. It appears that the Applicant has been detained for one year and has been in the rescue home for more than ten months. The Applicant is ready to give an undertaking that she will not indulge in such activities in future.

10. Considering the overall facts of this case, and considering the fact that the Applicant is a major and that she is ready to give an undertaking that she will not indulge in similar activities in future, the Application is allowed on the following terms & conditions:

O R D E R

(i) The impugned order dated 10.09.2015 passed by the learned Metropolitan Magistrate, Special Court for ITPA, 54th Court at Mazgaon, Mumbai in R.A.No.67/2015 (C.R.No.209 of 2015) as well as the order dated 26.10.2015 passed by the learned Additional Sessions Judge, Greater Mumbai in Cri.Appeal No.836 of 2015 are quashed & set aside;

(ii) The Applicant is enlarged and set free from Mahila Probation Home, Namkum, District-Ranchi (Jharkhand) forthwith;

(iii) The Applicant shall give an undertaking that she will not indulge in similar offences in future. The undertaking to also state the

address where the Applicant will be residing and that if there is change in the address, she will inform the trial Court of the same. The said undertaking shall be filed by the Applicant, in the trial Court, within three weeks of her release;

(iv) The Applicant to remain present before the trial Court at the time of trial, on the date of recording of her evidence;

(v) The investigating officer to communicate the said order to the officer of the Mahila Probation Home, Namkum, District-Ranchi (Jharkhand).

11. Rule is made absolute in above terms.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)