

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

**CRIMINAL WRIT PETITION NO.2150 OF 2017**

Sunny Kamalsing Mathur

.... Petitioner

versus

The State of Maharashtra & Anr.

... Respondents

.....

- Mr.K.H. Holambe Patel i/b. K.K. Holambe Patil, Advocate for the Petitioner.
- Ms.S.D. Shinde, APP for the State/Respondent.

**CORAM : RANJIT MORE &  
SARANG V. KOTWAL, JJ.**  
**DATE : 27<sup>th</sup> JUNE, 2017.**

**P.C. :**

1. Heard the learned counsel for the petitioner and learned APP.

2. The petition is filed for the following reliefs:

*(b) This Hon'ble Court be pleased to call for the record and proceedings in respect of the order dated 24<sup>th</sup> April 2017 passed by Respondent No.2 and after*

*going through the same be pleased to quash and set aside the same.*

*(c) This Hon'ble Court be pleased to direct the Respondent No.2 to de-seal the said premises i.e. Bungalow No.27, Behind State Bank of India, Pali Village, Ambedkar Road, Khar (West), Mumbai 400 052 forthwith and allow the Petitioner to let out the same;*

3. So far as relief in prayer clause (c) is concerned, petitioners had earlier filed Writ Petition No.3929/16. By that Petition, the petitioner had challenged order u/s 18(1)(a) of the Immoral Traffic (Prevention) Act, 1956 (in short 'PITA'). The learned counsel for the petitioner after arguing for some time, had sought leave to withdraw that petition with liberty to approach Commissioner of Police. In that view of the matter, the relief claimed in this prayer in the present petition cannot be granted. As far as the relief as claimed in prayer clause (b) is concerned, the petitioner made an application dated 27/02/2017 to the Commissioner of Police and Executive

Magistrate, Greater Mumbai. The said application is rejected by an order dated 24/04/2017. The petitioner has challenged legality of this order.

4. The Commissioner considered the petitioner's application, analyzed the facts and concluded that such kind of permission cannot be granted in view of the severity of the offence. The order passed by the Commissioner of Police is discretionary and we are not sitting in appeal over this order. In exercise of the jurisdiction under Article 226 of the Constitution of India, we are not inclined to entertain this petition.

5. The learned counsel for the petitioner also submitted that it is mandatory in view of the provisions of section 18(1)(b) of the PITA for the Commissioner of Police/Executive Magistrate to grant the petitioner, permission to let the subject premises. Having gone through the sub-section (b) of 18(1), we are unable to agree with this submission. In this sub-section, the petitioner is required to obtain prior permission before letting of the premises during the period of one year from the date of

eviction. Section does not say that it is obligatory for the Commissioner of Police/Executive Magistrate to grant the permission. The Commissioner of Police in exercise of his jurisdiction can also reject the permission.

6. In above circumstances, we do not find merit in the petition. The petition is accordingly dismissed.

**(SARANG V. KOTWAL, J.)**

**(RANJIT MORE, J.)**