

Anand

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

CRIMINAL APPLICATION NO. 634 OF 2017

Shimla Kallu Singh .Applicant
Age : 45 yrs
Residing at 97, Gram Jatakhedi Village
Jatakhedi Mohanpura Gulakhedi
(Virana), Tehsil – Panchore,
District – Rajgarh,
Madhya Pradesh – 465 683.
(Mother of victim girl – Roshni Kallu Singh)

Vs.

The State of Maharashtra .Respondent
At the instance of D. B. Marg Police Station
Vide C. R. No. 41 / 17

Mr. P. R. Dave i/b. Mr. T. M. Kadam, Advocate, for the Applicant
Mr. H. J. Dedhia, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 05.02.2018

ORAL ORDER

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

2. Heard learned counsel for the parties.

3. Rule.

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

5. By this Application, the Applicant has impugned the Order dated 24.03.2017 passed by the learned Metropolitan Magistrate, Special Court for ITPA, 54th Court at Mazgaon, Mumbai in R. A. No. 11 / RA / 2017, by which the Applicant's daughter – Roshni was detained for a period of one year from the date of the order; as well as the Order dated 19.05.2017 passed by the learned Special Judge (POCSO) Court, Greater Bombay below M.A.No. 445 of 2017 in R. A. No. 223 of 2017, by which the Applicant's Application for taking custody of her daughter came to be rejected.

6. Learned counsel for the Applicant submitted that admittedly, the Applicant's daughter – Roshni is a major aged about 22 years. He submitted that Roshni is desirous of going back to her parents. He further submits that the Applicant's husband is in a critical condition and is presently in coma hence, the Applicant's daughter be released on forthwith.

7. Learned APP for the Respondent – State does not deny the fact that the Applicant's daughter is a major aged about 22 years. He on instructions states that the Applicant's daughter is desirous of going back to her parents.

8. Perused the papers including the impugned Orders. The Applicant is the mother of the victim girl. The victim girl was rescued by a police officer in connection with C. R. No. 41 / 17 registered with the D. B. Marg Police Station, under Sections 366A, 370(1) r/w 34 of the Indian Penal Code, under Sections 3, 4, 5 & 7(1)(b) of the Immoral Traffic (Prevention) Act and under Sections 4, 8 & 17 of the Protection of Children from Sexual Offences Act. After the Applicant's daughter was rescued, she was kept in the custody of the Child Welfare Committee, Deonar, Mumbai. Admittedly, the Applicant's daughter was a major at the time when she was rescued i. e. she was about 22 years of age.

9. It is informed by the learned APP on instructions of the investigating officer, that the Applicant's daughter is desirous of going back to her parents. It is also informed that the Applicant's husband and the father of the victim girl is in coma and is in a very critical condition.

10. Considering the aforesaid, the Application is allowed & is disposed of on the following terms & conditions :-

ORDER

(i) The impugned Order dated 24.03.2017 passed by the learned Metropolitan Magistrate, Special Court for ITPA, 54th Court at Mazgaon, Mumbai in R. A. No. 11 / RA / 2017 as well as the Order dated 19.05.2017 passed by the learned Special Judge (POCSO) Court, Greater Bombay below M.A.No. 445 of 2017 in R. A. No. 223 of 2017 are quashed & set aside;

(ii) The Superintendent, Navjeeven Mahila Vastigruh, Deonar, Mumbai is hereby directed to forthwith handover custody of the victim girl to the Petitioner;

(iii) The Petitioner shall give her address, mobile number etc. to the investigating officer as well as to the trial Court after the release of the victim girl;

(iv) The Petitioner shall ensure that the victim girl does not indulge in these activities in future.

Rule is made absolute in the aforesaid terms.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)