

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

**CRIMINAL APPLICATION NO.355 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.378 OF 2017**

Sunita Kamal Mukharjee @
Kajal Kamal Adhikary

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

.....

Mr.Niranjan A. Mogre i/b. Mr.Ravi Girish Shinde, Advocate for
the Applicant.

Ms.R.M. Gadhvi, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 24, 2018.

P.C. :

This is an application for suspension of sentence. The applicant has been convicted by the Court of Metropolitan Magistrate Special Court for PITA, 54th Court, Mazgaon, Mumbai in C.C.No.301/PW/2008 vide judgment and order dated 7th April, 2014. The applicant was convicted for the offence punishable under Sections 3, 4 and 5 of Prevention of Immoral Trafficking (Prevention) Act, 1956 (PITA Act) and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.2,000/- and in default to suffer simple imprisonment for the

offence punishable under Sections 3 and 5 of the said Act and the applicant was further sentenced to suffer rigorous imprisonment for the period of two years and to pay fine of Rs.1,000/- in default to suffer simple imprisonment for one month for the offence punishable under Section 4 of the PITA Act. The applicant preferred an Appeal before the Sessions Court, which has been dismissed vide judgment and order dated 4th April, 2017.

2 Learned advocate for the applicant submits that during the pendency of the trial and the Appeal, the applicant was on bail. She has not misused the facility of bail. She is not involved in any other case during the pendency of the trial and the Appeal. It is submitted that there are discrepancies in the evidence of P.W.1. It is submitted that the victim girl who were purportedly found in the premises were not examined by the prosecution. It is further submitted that there is no evidence to establish the charges against the applicant. All the women who were allegedly found at premises were major.

3 Learned APP submitted that the applicant is convicted by the trial Court which conviction has been confirmed by the Appellate Court. There is no reason to interfere in the

concurrent findings. Applicant was involved in commission of serious crime. Applicant was working as a manager at the premises which was used as a brothel.

4 The applicant is a woman. She was on bail during the trial and during the pendency of Appeal. Arguments advanced by the advocate for the applicant requires to be considered at the time of final hearing of the Revision Application. The applicant is in custody since 8th September, 2017. In the circumstances, a case for suspension of sentence is made out.

5 Hence, I pass the following order:

:: ORDER ::

- (i) The sentence of imprisonment awarded by the Court of Metropolitan Magistrate Special Court for PITA, 54th Court, Mazgaon, Mumbai in C.C.No.301/PW/2008 vide judgment and order dated 7th April, 2014 which is confirmed by the Sessions Court vide judgment and order dated 4th April, 2017, passed in Criminal Appeal No.399 of 2014, is suspended and the

applicant is directed to be released on bail on furnishing PR Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

- (ii) The applicant shall report to Nagpada police station, Mumbai, once in a month on first Saturday between 10:00 a.m. to 12:00 noon, till further orders;
- (iii) Criminal Application No.355 of 2017 stands disposed of.

(PRAKASH D. NAIK, J.)