

CRIMINAL APPLICATION NO.338 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.346 OF 2018

Jaibunisa Gulam Rasul Shaikh	Applicant
versus	
The State of Maharashtra	Respondent

Mr.A.N.Pathan for applicant.
Mr.P.H.Gaikwad, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 6th August 2018

PC :

1. This is an application for suspension of sentence and grant of bail. The applicant is convicted for offence punishable u/s 3 of Immoral Traffic (Prevention) Act, 1956 and sentenced to suffer rigorous imprisonment for one year. The applicant is also convicted for the offence punishable u/s 4 of the said Act and sentenced to suffer simple imprisonment for one year. Both the sentences were directed to run concurrently. The applicant is, however, acquitted for the offence u/s 5 of the said Act. The appeal preferred by the applicant has been dismissed by judgment and order dated 18th May 2018. While dismissing the appeal, the applicant was taken in custody and since then she is undergoing the sentence.

2. Learned counsel for applicant submitted that the applicant is in custody for about three months. The sentence awarded by the Courts below is one year. It is submitted that there are several infirmities in the case of prosecution. The panchas were not

examined. The alleged bogus customer has not supported the prosecution case and was declared hostile. No other independent witnesses examined by the prosecution. The case is based on the evidence and police witness. It is further submitted that the applicant was on bail during the trial as well as during pendency of appeal and she has not misused the facility of bail.

3. Learned APP submitted that there is concurrent findings of two Courts. The prosecution has proved its case against the accused and therefore the Trial Court convicted the applicant for the offences u/ss.3 and 4 of the said Act. There is sufficient evidence against the applicant to prove the charge and there is concurrent findings of two Courts against the applicant.

4. Considering the submissions advanced by learned advocate for applicant with regards to the nature of evidence adduced against her and also taking into consideration the fact that sentence is of one year and the applicant is in custody since 18th May 2018, the sentence of imprisonment awarded by the Courts below can be suspended.

5. Hence, I pass following order :

ORDER

(i) Pending hearing and final disposal of Criminal Revision Application No.346 of 2018, the sentence awarded by the Court of Metropolitan Magistrate, Special Court for ITPA, 54th Court, Mazgaon, Mumbai in CC No.5400557/PW/2013 by judgment and order dated 6th April 2016, which was confirmed by the Sessions

Court, Borivali, Division Dindoshi, Mumbai in Criminal Appeal No.99 of 2016 vide judgment and order dated 18th May 2018, 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) Criminal Application No.338 of 2018 is disposed off.

(PRAKASH D. NAIK, J.)

MST