

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1584 OF 2017

IN

CRIMINAL APPEAL NO.145 OF 2018

SMT.ASMA SALAUDDIN KHAN

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Ms.Nasreen Ayubi, Advocate for the Applicant.

Mr.Prashant Jadhav, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 14th FEBRUARY 2018

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused no.2 on bail during pendency of the appeal filed by her. The applicant/accused no.2 along with co-accused is convicted of the offence punishable under Section 370 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for 7 years apart from imposition of fine of Rs.500/- and default sentence of 1 month.

2 Heard Ms.Nasreen Ayubi, the learned advocate appearing for the applicant/accused no.2. She drew my attention to the evidence of PW2 Shayda Khan – alleged victim of the crime in question and argued that she is not a trustworthy witness because she has stated that she is wife of co-accused Salauddin and she had not lodged any complaint during the period of six months. The learned advocate further argued that, infact, there is no evidence to point out that PW2 Shayda Khan was sold by accused persons. The learned advocate further criticized the evidence of PW4 Seema and PW5 Mumtaz by stating that there evidence is discrepant and it is seen that the applicant/accused no.2 was not present at the time of the discussion regarding selling the victim.

3 The learned APP opposed the application by drawing my attention to the evidence of PW2 Shayda Khan as well as other prosecution witnesses.

4 I have carefully considered the rival submissions and also perused copies of deposition of prosecution witnesses. Evidence of PW2 Shayda Khan, who is alleged victim of the crime in question, shows that both applicants/accused persons had taken her from her village Simra Kharati and brought her to Mumbai. PW4 Seema and PW5 Mumtaz have deposed that they were indulging in prostitution and on 19th February 2014, co-accused Salauddin Khan approached them while they were sitting at Hotel Nagori for the purpose of selling PW2 Shayda Khan. At their instance, communication was made to the police, which ultimately resulted in arrest of accused persons. The present applicant/accused no.2 was also seen to be accompanying co-accused Salauddin, who is her husband, and PW2 Shayda Khan was in company of both persons. They were found at Kamathipura - area of Mumbai notorious for prostitution.

5 Considering the nature of evidence against the present applicant/accused no.2 as well as nature and seriousness of the offence, no case for grant of bail is made out.

6 The application is, therefore, rejected.

(A. M. BADAR, J.)