

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

CRIMINAL APPLICATION NO.1835 OF 2018

**IN
CRIMINAL APPEAL NO.1312 OF 2018**

Mr. Anil Motilal Pawar & Anr. Applicants

Vs.

The State of Maharashtra Respondents

Mr. Hitesh D. Magar for the applicants.

Mr. S.H. Yadav, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 14th December 2018

P.C.:

1 Heard the respective counsel.

2 This is an application under Section 389 Code of Criminal Procedure. The applicants herein are convicted by the Additional Sessions Judge, Greater Bombay vide judgment and order dated 29th September 2018 in Sessions Case No. 464 of 2014. Accused no.1 Anil Pawar is convicted for the offences punishable under Sections 3

and 4 of the Immoral Traffic (Prevention) Act, 1956 (“ITPA” for short) and sentenced to suffer rigorous imprisonment for one year and two years and fine of Rs.1,000/-, in default to suffer rigorous imprisonment for three months respectively. Accused no. 2 Prafulla Angrakh is convicted for the offences punishable under Sections 3, 4 and 5 of ITPA Act and sentenced to suffer rigorous imprisonment for one year, two years, three years and fine of Rs.1,000/-, 1,000/- and 2,000/-, in default to suffer rigorous imprisonment for three months, three months and six months respectively and that all the sentences shall run concurrently.

3 Learned counsel for the applicants submits that the applicants were on bail during the pendency of the trial and have not committed breach of any conditions imposed upon them. It is also submitted that the applicants have been sentenced to a short term sentence and that there is no possibility of the appeal being finally heard in the near future.

4 In view of the judgment of the Hon'ble Apex Court in the case of **Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130**, the substantive sentence imposed upon the applicants deserve to be suspended during the pendency of the appeal. In view of above, taking into consideration that the sentence imposed upon the applicants is a short term sentence, it would be a fit case for suspension of the substantive sentence. However, it is made clear that the suspension of substantive sentence shall not be construed as suspension of conviction. Hence, the following order.

ORDER

- i) The application is allowed and disposed of.
- ii) The substantive sentence imposed upon the applicants vide judgment and order dated 29th September 2018 is hereby suspended.
- iii) The applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.20,000/- each with one or more solvent sureties in the like amount.
- iv) The applicants shall report to the Court of Additional Sessions Judge, Greater Bombay once in six months on the date assigned by the Sessions Judge.

v) Upon failure to attend any two consecutive dates, the Sessions Court shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

vi) Learned counsel submits that after conviction, the applicants have been enlarged on cash bail of Rs.20,000/-. The applicants shall furnish solvent sureties within four weeks from today.

(*Smt. Sadhana S. Jadhav, J*)