

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

**CRIMINAL APPEAL NO.541 OF 2019
ALONGWITH
CRIMINAL APPLICATION NO.389 OF 2019**

Sujoy Ramesh Mandal Appellant

Vs.

The State of Maharashtra Respondent

Mr. Aniket Vagal for the appellant/applicant.

Mr. S.R. Agarkar, APP for State.

Mr. Kamlesh Jathar, API, Dr. D.B. Marg Police Station, Mumbai

Coram : Smt. Sadhana S. Jadhav, J.

Date : 24th April 2019

P.C.:

- 1 Heard. Appeal is admitted.
- 2 The above application is filed under Section 389 Code of Criminal Procedure for suspension of substantive sentence imposed upon the applicant. The applicant herein is convicted by the Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay in Sessions Case No. 369 of 2014 vide judgment and order

dated 25th July 2017. The applicant is convicted for the offences punishable under Sections 370(3), 342 read with 34 of Indian Penal Code and under Sections 3, 4, 5 and 6 of the Immoral Traffic (Prevention) Act, 1956. The applicant is sentenced to suffer rigorous imprisonment for ten years, one year and fine of Rs.5,000/-, Rs.500/- in default to suffer rigorous imprisonment for six months and 15 days respectively for the offence punishable under Sections 370(3), 342 read with 34 of Indian Penal Code. The applicant further sentenced to suffer rigorous imprisonment for one year, two years, three years and seven years, fine of Rs.2,000/-, Rs.500/-, Rs.2,000/-, and Rs.1,000/-, in default to suffer rigorous imprisonment for two months, 15 days, two months and one month respectively for the offence punishable under Sections 3, 4, 5 and 6 of the Immoral Traffic (Prevention) Act, 1956. The sentences would run concurrently.

3 The co-accused, Mamata Shambhunath Das, who is the appellant in Criminal Appeal No. 1477 of 2018 has been enlarged on bail by this Court under Section 389 Cr.P.C. (In Criminal Application

No. 1929 of 2018) vide order dated 5th February 2019. Learned counsel for the applicant submits that the applicant has undergone the sentences for the offences punishable under Section 342 of Indian Penal Code and under Sections 4 and 5 of the Immoral Traffic (Prevention) Act. The applicant has also undergone default sentence for all the three offences.

4 This Court has observed in the earlier order that there is no material nor evidence to even remotely indicate that the applicant was involved in an offence where there is a trafficking of more than one person.

5 For the observations made in Criminal Application No. 1929 of 2018, the present applicant also deserves to be enlarged on bail. The material collected in the course of investigation against the present applicant that he was found in the same room alongwith co-accused Mamata Das. Learned counsel for the applicant submits that they were residing together in the said room and the said premises was treated as their residential premises.

6 Learned APP upon instructions submits that no order is passed on the application under Section 18 of the Immoral Traffic (Prevention) Act. In view of this, the applicant deserves to be granted bail during the pendency of the appeal. Hence, the following order.

ORDER

- i) The application is allowed.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 25th July 2017 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.30,000/- with one or more solvent sureties in the like amount.
- iv) The applicant shall report to the Sessions Court, City Civil and Sessions Court, Greater Mumbai 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 make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

vi) The applicant be enlarged on provisional cash bail for a period of eight weeks.

vii) The applicant shall furnish solvent sureties within eight weeks from today. Upon failure, the learned Sessions Judge shall issue warrant and take the applicant into custody.

Parties to act on authenticated copy of this Order.

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