

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

CRIMINAL APPLICATION NO. 480 OF 2019

IN

CRIMINAL APPEAL NO. 101 OF 2019

Nargis Abul Hasan Mandal ...Applicant

Versus

The State of Maharashtra ...Respondent

Tahera Qureshi i/b Yakub Shaikh – Advocate for the applicant.
A. S. Patil – APP for the Respondent – State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 22nd JULY, 2019.

P.C. :

The applicant is one of the three accused. All have been charged under Sections 3, 4, 5, and 6 of Immoral Traffic (Prevention) Act, 1956, and Sections 366-A, 366-B, and 372 read with 344 of IPC. In Sessions Case No. 27 of 2013, the Trial Court convicted them and sentenced them, among other things, to undergo rigorous imprisonment for 10 years. All the three accused filed this appeal.

2. The applicant is accused no. 3. The applicant's counsel submits that the other two accused are the applicant's brother-

in-law and sister. According to him, in the entire case there is no allegation against the applicant. Just because she is living in the same house, the prosecution has attributed guilt to her, and the Trial Court accepted it. To support this contention, the learned counsel has taken me to the evidence of one of the victims—that is PW-1.

3. That apart, the applicant has been serving the sentence ever since she had been arrested, pending the trial. Now, of the 10 years, she has already completed more than 7 years.

4. Heard Shri Taher Qureshi, the learned counsel for the applicant, and Shri A. S. Patil, the learned APP for the respondent.

5. As rightly contended by the applicant's counsel there is, prima facie, no direct evidence against the applicant, as the perpetrator of the crime. She was, indeed, residing with the other accused who had been attributed active role. Besides that, the applicant has served more than 50% sentence by now.

To add to the above grounds, I reckon it is unlikely for this Court to take up the appeal immediately. So I suspend the sentence and enlarge the applicant on bail subject to these conditions:-

ORDER

(i) The Criminal Application is allowed.

(ii) Substantive sentence imposed on the accused no. 3 is suspended, and she is directed to be released on bail on her executing P.R. Bond for Rs. 15,000 /- and on her furnishing two sureties, each for the like amount.

(iii) Pending the appeal, the accused no. 3 should not contact the first informant or any other witness in any manner.

(iv) The accused no. 3's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail.

[DAMA SESHADRI NAIDU, J.]