

Vidya Amin.

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

CRIMINAL WRIT PETITION NO. 3951 OF 2018

Preeti Deepak Patel	...	Petitioner
VS.		
The State of Maharashtra	...	Respondent

**WITH
WRIT PETITION NO. 3952 OF 2018**

Savitri @ Sabitri Ratan Saha	...	Petitioner
VS.		
The State of Maharashtra	...	Respondent

Mr. Mahesh Vaswani a/w. Ms. Dharini Nagda, Advocate for the petitioner.
Ms. Veera Shinde, APP for the respondent/State.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 23rd January, 2019.**

P.C. :

In these Writ Petitions, both the petitioners are victim women under The Immoral Traffic (Prevention) Act, 1956 (PITA). They have prayed for release from the Navjeevan Mahila Sanstha Deonar, Mumbai. D.B. Marg Police conducted raid on 23rd May, 2018 at Dinesh Building, 2nd floor, Grant Road, Mumbai and 11 girls including these two petitioners were rescued. The offence was registered under section 370(3) r/w. 34 of Indian Penal Code and under sections 3, 4, 5 and 6 of PITA.

2. These two petitioners were sent to rehabilitation centre, Deonar by order dated 9th August, 2018. The learned counsel for the petitioners argued that these two petitioners were kept in the same rehabilitation centre since 24th May, 2018, i.e., from the date of production before the learned Magistrate by the police. By the order dated 9th August, 2018, the learned Designated Judge under Protection of Children from Sexual Offences Act, Greater Bombay directed the detention of the petitioners for a period of one year at the rehabilitation centre, i.e., Government Navjeevan Mahila Sanstha, Deonar, Mumbai from the date of the order. However, the said order is illegal in view of Section 17(3) second proviso. The learned counsel for the petitioner relied on the judgment of Division Bench of this Court in the case of **Sanam Vimala Joshi & Ors. vs. State of Maharashtra**, reported in **2006 ALL MR (Cri) 2810**.

3. Learned APP has submitted that in this case, the procedure is properly followed under section 17(2) and after obtaining the report of the Probation Officer and after enquiry, the order of keeping the girls for a period of one year in rehabilitation centre

was passed.

4. As per the case of the victims and also accepted by the prosecution, the victims were produced before the learned Magistrate on 24th May, 2018 and thereafter within 21 days, the order of their rehabilitation should have been passed. In view of Section 17(3) second proviso, the victims should not be kept in custody for a period of exceeding 3 weeks from the date of the said order. In this case, on 24th May, 2018, the victims were produced before the learned Magistrate and they were initially kept in rehabilitation centre, however, the learned Sessions Judge ought to have passed the order of rehabilitation on or before 14th June, 2018. However, the order is not passed.

5. In the case of **Sanam Vimala Joshi & Ors.** (*supra*), the Division Bench of this Court has held that “second proviso to sub-section (3) provides that no person shall be kept in custody for the purpose for a period exceeding three weeks from the date of such an order.”

6. In view of this, the order passed by the learned Designated

Judge under Protection of Children from Sexual Offences Act, Greater Bombay of detention of the petitioners for a period of one year at the rehabilitation centre is hereby set aside.

7. In view of the mandatory requirement of Section 17(3) second proviso, both the petitioners/victims are to be released on the condition that they shall furnish their correct addresses and whereabouts to the Sessions Court and Investigating officer.

8. Both the Writ Petitions are allowed.

(MRIDULA BHATKAR, J.)