

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRI. I.A. NO. 963 OF 2020****IN****APPEAL NO. 207 OF 2020**

Falak Kalim Shaikh @
Parveen Mohammed Salim Shaikh

....Applicant.

Vs.

State of Maharashtra

....Respondent.

Smt. Sadhana Kumar i/by Naveen Kumar for the Applicant.
Mr. S.S. Hulke APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 9th OCTOBER, 2020.

P.C.:-

This is an Application for suspension of sentence and releasing the Applicant on bail.

2 Heard Smt. Kumar, learned Advocate for the Applicant and Mr. Hulke, learned APP.

3 The Applicant is convicted under Section 370(3) of the Indian Penal Code and under Sections 4 and 5 of the Immoral Trafficking (Prevention) Act, 1956 (for short, '*the ITPA Act*') and is sentenced to suffer maximum rigorous imprisonment for 10 years and to pay total fine amount of Rs.13,000/-, by the learned Additional Sessions Judge, Borivali Division, Dindoshi, in Sessions Case No.213 of 2014, by its Judgment and Order

dated 14th January, 2020.

4 The record *prima facie* indicates that, the victims i.e. P.W. Nos. 1 and 2 have not deposed that, the Applicant forced them to indulge into the vocation of prostitution. It further *prima facie* appears that, the said victims were indulging into the vocation of prostitution on their own will and one Mr. Raju was facilitating them for the same. It further appears that, the said Mr. Raju has neither arraigned as an accused nor has been examined as a prosecution witness in the present case.

 The record further indicates that, the present crime was registered on 19th September, 2014 and the Applicant came to be arrested on 20th September, 2014. She was released on bail by the Trial Court on 1st January, 2015. She was on bail during the pendency of the trial. The Applicant was thereafter taken into custody after pronouncement of impugned Judgment and Order dated 14th January, 2020.

5 The learned counsel for the Applicant, on instructions, submitted that, the Applicant has not deposited fine amount till today, however, she will deposit the entire fine amount imposed upon her by the impugned Judgment and Order before her actual release from Jail in the Registry of the Trial Court. The said statement is accepted as an undertaking given to this Court.

 She further submitted that, there are no antecedents at the discredit of the Applicant.

After taking into consideration the allegations made against the Applicant and the fact that, the maximum sentence imposed upon her is 10 years of rigorous imprisonment and the possibility of hearing of the present Appeal on its own merits in near future is remote, this Court is of the view that, the substantive sentence imposed upon the Applicant can be suspended and the Applicant can be released on bail.

Hence the following Order:-

- a) During the pendency of the present Appeal, the substantive sentence imposed upon the Applicant is suspended.
- b) Applicant be released on bail in Sessions Case No. 213 of 2014, on her furnishing PR bond of Rs.25,000/- with one or two local sureties in the like amount.
- c) Before her actual release from Jail, the Applicant shall deposit the entire fine amount imposed upon her by the impugned Judgment and Order in the Registry of the Trial Court.
- d) After her release from Jail and during the pendency of the present Appeal, the Applicant shall attend Goregaon Police Station, Mumbai on every first Monday of the month between 10.00 a.m. and 12.00 noon, initially for

a period of one year.

After end of one year, the Applicant shall attend the Goregaon Police Station, Mumbai on every first Monday of the every 3rd Month between 10.00 a.m. and 12.00 noon. The Applicant thus, shall attend Goregaon Police Station, Mumbai 4 times in a year during the pendency of the present Appeal.

e) If the Applicant commits three consecutive defaults in complying with condition No. (d) above, in that event, the prosecution will be at liberty to file an Application for cancellation of bail.

f) Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

6 Application is allowed in the aforesaid terms.

7 This Order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this Order.

(A.S. GADKARI, J.)

Sanjiv S.
Mashalkar

Digitally signed
by Sanjiv S.
Mashalkar
Date: 2020.10.09
17:23:47 +0530