

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.987 OF 2019
ALONG WITH
CRIMINAL APPLICATION NO.988 OF 2019
IN
CRIMINAL APPEAL NO.867 OF 2019

Ashish Prakash Kesari ... Applicant

Versus

The State of Maharashtra ... Respondent

.....
Mr. Prafull Gaikwad, Advocate for the Applicant.
Mrs. P. P. Shinde, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 14th OCTOBER, 2020.

PER COURT:

1. These are applications for suspension of sentence and grant of bail, during the pendency of appeal preferred by the applicant challenging the Judgment and order dated 24th April, 2019 passed by Additional Sessions Judge, Greater Mumbai, in Sessions Case No. 605 of 2011 along with Sessions Case No. 635 of 2012.

2. The applicant is convicted for the offence under Section 4 of Immoral Traffic (Prevention) Act, 1956 and sentenced to suffer imprisonment for seven years and to pay fine of Rs. 1,000/-.

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3. The prosecution case is that, information was received that some persons are indulging in prostitution activities. Raid was arranged. Bogus customer and panch witnesses were instructed to participate in the raid. One rickshaw came to the spot. There were three girls. Bogus customer spoke to rickshaw driver and handed over the amount to him. The girls were taken to premises. Raid was effected. Three girls were found in the room. Rickshaw driver is taken in custody. He disclosed his name. During investigation other accused were arrested.

4. Learned counsel for the applicant submitted that the applicant was rickshaw driver. The only role allegedly committed by him is that he was driving auto rickshaw carrying victim girls at the time of raid. The applicant was on bail during the trial. The other accused had preferred application for suspension of sentence before this Court which has been allowed and they have been directed to be released on bail.

5. Learned APP submitted that the applicant was rickshaw driver. The amount was handed over to him and he accepted the same. He has participated in the crime. He was part of the group indulging in prostitution activity.

6. The applicant was on bail during the trial. It is not

reported that the applicant has misused the facility of bail. The role attributed to applicant is that he was driving rickshaw carrying victim girls, when he was apprehended. Accused No.2 to 7 have challenged the Judgment of conviction by preferring Criminal Appeal No. 857 of 2019. They had also preferred application for suspension of sentence which has been allowed by order dated 3rd July, 2020 and they have been directed to be released on bail on the ground that they were all along on bail during the course of trial. Appeal may not come up for hearing within short span of time. Considering these circumstances, sentence of imprisonment can be suspended.

ORDER

- i) The substantive sentence of imprisonment awarded to the applicant is suspended during the pendency of appeal subject to the applicant furnishing P.R. bond in the sum of Rs. 25,000/- with one or two solvent sureties each in the like amount and on payment of fine, if not already paid.
- ii) The applicant is permitted cash bail surety of Rs. 25,000/- for a period of 8 weeks in lieu of furnishing the surety bond.
- iii) The applicant shall furnish his permanent residential address along with proof before the RCF Police Station, Mumbai.

iv) Criminal Application Nos. 987 of 2019 and 988 of 2019 stands disposed of accordingly.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)