

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

CRIMINAL WRIT PETITION NO.617 OF 2021

Priya Deepak Gowala	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mr. Ashley Cusher, Advocate for Petitioner.
Mr. A. R. Patil, APP for Respondent No.1 (State).
Mr. Shehzad Naqvi, Advocate for Respondent No.3.
Mr. R. S. Devkar, P.I. (I.O.) present.

CORAM : A. S. GADKARI, J.
DATE : 7th APRIL, 2021.

P.C. :

1. The Petitioner is victim in C.R. No.343 of 2020 registered with Varsova Police Station, Mumbai dated 4th September 2020, under Section 370 (3) read with Section 34 of the Indian Penal Code and under Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 (for short “PITA Act”). The Petitioner has filed present Petition impugning the Judgment and Order dated 12th November 2020, passed in Criminal Appeal No.86 of 2020, filed under Section 17 (6) under the PITA Act, by the learned Additional Sessions Judge, Borivali Division, Dindoshi Goregaon, Mumbai, dismissing the said Appeal and confirming Order dated 25th September 2020, passed by the learned Metropolitan Magistrate 15th Court, Mazgaon,

(At Sewri) Mumbai in PITA, R.A. No.13 of 2020 directing detention of Petitioner with the Respondent No.3, Rescue Foundation for a period of one year under Section 17 of PITA Act.

2. The record indicates that, the Officers of Social Service Branch, Crime Branch, Mumbai conducted raid at a Hotel situated within a jurisdiction of Varsova Police Station and found in all three victim ladies therein. The Petitioner is one of the victim. The concerned Police produced the petitioner before the learned Metropolitan Magistrate, 15th Court, Mazgaon (At Sewri), Mumbai, as per the provisions of Section 17 of the PITA Act. Learned Magistrate by its impugned Order dated 25th September 2020 directed detention of the Petitioner for a period of one year in Rescue Foundation i.e. Respondent No.3 herein. The Petitioner challenged the said Order under Section 17(6) of PITA Act by filing Criminal Appeal No.86 of 2020 before the Court of Sessions at Dindoshi (Borivali Division), Goregaon, Mumbai. The Appellate Court has dismissed the said Appeal by its Order dated 12th November 2020.

3. Perusal of impugned Order dated 25th September 2020 indicates that, the learned Magistrate directed detention of Petitioner for one year in Rescue Foundation, Kandivali, Mumbai, predominantly on the ground that, she was suffering from sexually transmitted disease, as she was tested positive to Treponema Pallidum Elisa (TPE) Test and therefore, learned

Magistrate come to the conclusion that, it will not be proper to release the Petitioner on her personal bond.

4. It is an admitted fact on record that, the Petitioner is an adult aged about 27 years. In view of the observations made by the learned Magistrate in its impugned Order, on earlier occasion, this Court had directed the learned counsel appearing for Respondent No.3 to produce latest medical reports of Petitioner.

Learned counsel for the Respondent No.3 today produced on record two certificates issued by the Medical officer, attached to Mumbai District Aids Control Society dated 3rd April 2021 and by the Bharatratna Dr. Babasaheb Ambedkar Municipal General Hospital dated 1st April 2021 (5th April 2021). The certificate dated 3rd April 2021, mentions that, the Petitioner is tested negative for HIV. The certificate dated 5th April 2021, mentions that, 'no significant are found for VDRL and no treatment is required' to the Petitioner.

5. It is thus clear that, the ground on which the Petitioner is directed to be detained by the learned Magistrate, no more survives and as a matter of fact ceases to remain in force.

Learned counsel appearing for Respondent No.3, on instructions also makes a statement that, the detention of Petitioner with Rescue Foundation is no more required and she can be released by passing

necessary Orders in that behalf.

6. In view of the above, Petitioner be released from custody of Rescue Foundation, Kandivali on her furnishing an undertaking that, she will remain present on necessary dates before the Trial Court after receipt of notice in that behalf from it, at the time of trial. Upon filing such an undertaking, the Petitioner shall be released from the custody of Rescue Foundation, Kandivali.

7. Petition is allowed in the aforesaid terms.

(A. S. GADKARI, J.)