

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

**CRIMINAL APPLICATION NO.351 OF 2022
IN
CRIMINAL APPEAL NO.82 OF 2022**

Mrs.Kamla Brijbhushan Sisodiya .. Applicant/Appellant
Versus
State of Maharashtra .. Respondent

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Mr.Ajay Awasthi i/b. Mr.Shaikh Ifran, Advocate for the
Applicant/Appellant.

Ms.P.N. Dabholkar, APP for the Respondent – State.

PSI Sharad R. Nimale, M.I.D.C. Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 15, 2022.

P.C. :

This is an application for suspension of sentence and grant of bail pending criminal Appeal No.82 of 2022.

2 Applicant (accused no.1) has been convicted for the offence punishable under Section 370 read with 34 of Indian Penal Code (“IPC”, for short) and Section 363 read with 34 of IPC, and, sentenced to undergo imprisonment of 7 years on each count. She has been acquitted for the offence under Section 419 read with 34 of IPC.

3 The prosecution case relates to Kidnapping of victim for exploitation from lawful guardianship.

4 Learned counsel for the applicant/appellant submitted that the applicant/appellant is a lady. She was on bail during trial. On the date of conviction, she has been taken in custody. She has been in custody for the period of about 5 to 6 months. The evidence adduced by the prosecution suffers from serious discrepancies in the nature of contradictions and omissions. The victims were not subjected to sexual assault. The applicant/appellant has not misused the facility of bail granted during the pendency of trial. P.W.1 first had no knowledge of circumstances under which the victim was staying in custody of Aarti. Evidence of P.W.2 is hearsay. P.W.4 was unable to depose the account of case qua applicant. She was tutored. Offence under Section 370 of IPC is not proved. Victim was not found in custody of applicant.

5 Learned APP submitted that the evidence of P.W.4/victim is crucial. Minor discrepancies in evidence is not sufficient to grant bail to the applicant/appellant. The offence is of serious nature. The sentence of imprisonment is seven years.

6 It is pertinent to note that the applicant/appellant is a lady. She was on bail during the trial. There is no adverse report with regards to misuse of facility of bail. The defence has urged that there

are serious discrepancies in the evidence. According to P.W.1, victim disclosed that two persons took her on motorcycle and brought her to Mumbai and kept in house of one Aarti. Applicant had threatened her. P.W.3 stated that victim is friend of her daughter. Victim told her daughter, her mother is in her village. She was brought to Mumbai. She was kept with one lady. Name of lady was not disclosed. P.W.3 is daughter of P.W.2. She is friend of victim. She stated that victim told her that Kamala aunty and Aarti are not her real mother and sister. She was brought to Mumbai by some persons. P.W.4 stated that she was brought by two persons and kept with Maya aunty. Thereafter, she went to her parents. The victim was allegedly kidnapped by some persons. It is not alleged that there was exploitation. The defence has contended that Section 370 of IPC is not made out. The applicant was on bail during trial. It is not reported that she has misused facility of bail.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Interim Application No.351 of 2022, is allowed;
- (ii) During the pendency of Criminal Appeal No.82 of 2022, the sentence of imprisonment imposed *vide* judgment and

order dated 16th December, 2021, passed by learned Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai, in Sessions Case No.1 of 2017, is suspended and the applicant/appellant is directed to be released on bail on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant/appellant is permitted to furnish cash bail security of Rs.25,000/-, for a period of ten weeks, in lieu of surety;
- (iv) Applicant/appellant shall attend the trial Court once in six months on first Saturday of the month between 11:00 a.m. to 01.00 p.m., till final disposal of Appeal;
- (v) In the event there are two consecutive defaults in attending the trial Court, the said fact may be brought to the notice of this Court and the prosecution is at liberty to move an application for cancellation of bail;
- (vi) Interim Application No.351 of 2022, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)