

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

CRIMINAL APPLICATION NO. 744 OF 2022

Joydeb Roy Borthor Of Victim No.16

Rakhi Rajesh Sharma @ Roy

...Applicant

Versus

The State Of Maharashtra

...Respondent

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Mr. Abdeali Kothawala a/w Mr. Aashay Topiwala i/by Mr. Vrushabh M. Savla, Advocate for the Applicant.

Mr. Arfan Sait, APP for the Respondent – State.

Mr. A.N. Palande, PSI, D.B. Marg, Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th SEPTEMBER, 2022

PC :

1. The applicant is the brother of victim girl. Raid was effected by police under the provisions of Immoral Traffic Prevention Act, 1986 and about 18 victim girls were rescued from the spot of incident. First Information Report (for short “FIR”) was registered against the accused vide C.R. No. 746 of 2021.

2. Learned Metropolitan Magistrate, Special Court for ITPA 54th Court, Mazgaon, Mumbai vide order dated 12.01.2022 directed that victim Nos. 9, 10, 12, 13, 14, 16 and 17 be detained for one year. The Superintendent of Navjeevan Mahila Vastigriha, Deonar was directed to make

arrangement for sending victims to the concerned NGO Assam, West Bengal with escort provided by D.B. Marg Police Station. The Superintendent of Navjeevan Mahila Vstigriha, Deonar was directed to take necessary steps for shifting victims at the earliest with the escort provided by D.B. Marg Police Station. The concerned NGO at Assam and West Bengal were requested to help victims in all possible ways for their repatriation/ rehabilitation etc. The concerned NGO to take follow up in respect of filing of the charge-sheet, so that victims can be produced before concern Court for recording their evidence. The concerned NGO of Assam and West Bengal were directed to do counselling to brainwash victims so as to detach them from flesh trade in future. The The Victim Nos. 1, 2, 3, 4, 5, 6, 7, 8, 11, 15 and 18 be released on their own undertaking that they will take every care of themselves and will go to their claimants so that they will not be dragged in flesh trade and will not become further victims in future. It was noted that victim Nos. 11 and 16 were found to be positive in VDRL test. Victim No. 17 was found to be positive in TPHA test. It was further recorded that custody of victim Nos. 9, 10, 12, 13, 14, 16 and 17 was not claimed by anybody.

3. The order dated 12.01.2022 was challenged before the Sessions Court. The learned Sessions Judge vide order dated 27.07.2022 observed that victims are major. Custody of some of the victims is not claimed by anybody. For more than 6 months they are detained. The victim (sister of applicant) suffers from VDRL. The order passed by learned Magistrate against five other victims was set aside and they were set at liberty from Assam Centre for Rural Development, Navjeevan Rehabilitation for women and girls. The victim No.16 (sister of applicant) continued to be in custody of NGO as stated above.

4. Learned advocate for the applicant submitted that the victim is resident of West Bengal. The applicant is brother of victim No. 16. The parents of the victim are residing at West Bengal. The other victim girl, who also suffered from similar disease have been released from custody. The parents of the victim in the present case have filed affidavit stating that the applicant Joydeb Roy is their son. The applicant is brother of victim girl. They are ready to take custody of victim No.16 namely Rakhi Rajesh Sharma (Roy) and they undertake to provide her with all basic necessities of life and required medical treatment for her illness, if any. The

victim girl would be residing with them at Swamiji Pally, Gourangranagar P.S. New Town, Jagatpur, Rajarhat-Gopalpur (m), North 24 Parganas, Aswini Nagar, West Bengal 700159. The victim girl would not indulge in any immoral activities under the provisions of the said Act. The victim girl will attend trial Court as and when required. They have annexed copy of their Aadhar Card to affidavit. The applicant has annexed his Aadhar Card to this application. The affidavit is taken on record and marked 'X' for identification.

5. Learned APP submitted that, the victim in the present case was not released since she is suffering from illness.

6. Considering the aforesaid factual aspects, application can be allowed.

ORDER

(i) Order dated 12.01.2022 and 27.07.2022 qua victim No.16 (sister of applicant) are quashed and set aside.

(ii) The custody of the victim No.16 be handed over to her parents.

(iii) The parents of victim shall comply the affidavit.

(iv) The victim shall appear before the trial Court for recording her evidence.

(v) Application stands disposed of.

(PRAKASH D. NAIK, J.)