

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**17 CRIMINAL APPLICATION NO.3054 OF 2023
IN CRIMINAL APPEAL NO. 1114 OF 2023**

**SAVITRABAI W/O SACHIN DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr. R.V. Gore, Advocate for the applicant.
Mr. S.B. Narwade, A.P.P. for respondent No.1 – State.
Mrs. Manjushri Narwade, Advocate for respondent No.2.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 18th December 2023.

ORDER:-

1. Heard rival submissions.
2. The applicant, who is the original accused No.1, is seeking suspension of her substantive sentence of imprisonment for seven years for the offence punishable under Section 366 of the Indian Penal Code in Special Case (Child) No. 28/2020 vide judgment and order dated 18.05.2023.
3. The learned Counsel for the applicant submits that the present applicant/accused No.1 was not having any important role in the crime, but in fact accused No.3 had escorted the victim to main accused No.4 Datta. According to him, the present applicant did not accompany the victim till she reaches to main accused at Washim. He pointed out that the accused No.3 Jagdish, who in fact had carried the victim to the main accused, had already released on bail by this Court in the appeal preferred by him and his substantive sentence has also been suspended during the pendency of his appeal.

4. The learned A.P.P. as well as learned Counsel for respondent No.2/victim strongly opposed the application on the ground that the conviction is recorded by the learned Trial Court after considering the entire evidence on record. According to them, the present applicant was part of racket which was being run by the other accused for compelling the innocent girls of tender ages to do the business of prostitution.

5. However, on going through the case of prosecution, it is not the story of prosecution that all the accused were involved in such type of racket. In fact, the learned trial Court has given negative finding to such aspect in the judgment itself. Further, this Court vide order dated 04.08.2023 has already suspended the sentence of imprisonment imposed upon the other accused Jagdish i.e. accused No.3 who had taken the victim to the main accused Datta. It appears that though this applicant handed over the victim to accused No.3 at Badnapur, but thereafter she returned back. Moreover, it is settled that the sentence of imprisonment needs to be suspended when a sentence for fixed term is awarded. In the present case seven years imprisonment has been imposed upon this applicant and from that period she has already undergone the imprisonment of nine months upto now. Therefore, considering the earlier order of this Court in respect of another accused Jagdish, following order is passed.

ORDER

- (i) The application is hereby allowed and substantive sentence of imprisonment for seven years for the offence punishable under Section 366 of the Indian Penal Code imposed upon the applicant/accused

No.1 in Special Case (Child) No. 28/2020 under judgment and order dated 18.05.2023 by Sessions Judge, Jalna, is hereby suspended during the pendency of this appeal.

- (ii) Applicant be released on bail on execution of her P.R. bond of Rs. 25,000/- with one or more solvent sureties in the like amount.
- (iii) Bail in lower Court.
- (iv) The fees of the learned Counsel for respondent No.2 be quantified as per schedule.
- (v) Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)