

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

**INTERIM APPLICATION NO. 1543 OF 2022
IN
CRIMINAL APPEAL NO. 517 OF 2022**

Manisha Prakash Katte
Versus
The State Of Maharashtra And Ors.

...Applicant/Appellant
...Respondents

....

Mrs. Anjali Patil a/w Ms. Mallika Sharma, Advocate for the Applicant/
Appellant.

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

Mr. Pratik Pandurang Pokale, (P.S.I.) Pen Police Station, Raigad,
Present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 8th JUNE, 2023.

PER COURT:

1. This is an application for suspension of sentence and grant of bail during the pendency of appeal challenging the Judgment of conviction.

2. The applicant/accused No.4 has been convicted for the offences punishable under Sections 3(1), 4, 5, 6 & 7 of the Immoral Traffic (Prevention) Act, 1956 (for short 'PITA Act') and Sections 370(A) Part II, 370(2) & 366 of Indian Penal Code (for short "IPC"). The maximum sentence imposed for the conviction is up to 10 years.

3. The case of the prosecution is that the two victim girls were subjected to prostitution by the accused. The applicant and accused No.1 were convicted for the aforesaid offences, whereas the accused Nos.2 & 3 were acquitted. The trial Court has acquitted the applicant/accused No.4 for the offences under Sections 366(A) & 372 r/w Section 34 of IPC and Section 17 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act').

4. Learned Advocate for the applicant submitted that the evidence of the witnesses suffers from serious discrepancies. The victim's evidence is full of omissions and contradictions. The applicant is in custody from 04.09.2019. The appeal would not come up for hearing immediately.

5. Learned A.P.P. submitted that the applicant was instrumental in subjecting the victim girl to indulge in prostitution activities. The offence is of serious nature. There is sufficient evidence against the applicant.

6. The applicant is a lady. She is in custody for a period of about 3 years & 9 months. The prosecution has examined victim as PW-1. In the cross examination she has stated that the applicant took her to the house of the accused No.1 on two wheeler.

However, she does not know the road from which she was taken to the said place. She did not raise shouts while going on the vehicle of the applicant/accused No.4. She has stated before the Police that, on the last day of her stay at the house of the applicant, one person came to the house, who had subjected her to sexual intercourse. However, the said fact is not appearing in the statement recorded by the Police. This part of deposition suffers from omission. The prosecution has examined social worker as PW-5. She has not supported the prosecution. Apparently the evidence of the victim girls suffers from discrepancies which will have to be appreciated at the time of final hearing of the appeal.

7. Considering the nature of evidence, fact that the applicant is in custody for substantial period of time, and that she is a lady, the sentence of imprisonment can be suspended.

ORDER

- i. Interim Application No.1543 of 2022 is allowed;
- ii. Substantive sentence of imprisonment imposed vide Judgment and order dated 06.04.2022 passed by learned Additional Sessions Judge, Designated Court under POCSO Act, 2012, Kolhapur in Special POCSO Case No.93 of 2019 is suspended and the applicant is directed to be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- iii. The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of six weeks in lieu of surety.
- iv. The applicant shall report the concerned Police Station once in six months on first Saturday of the month between 11.00 a.m. to 1.00 noon till the final disposal of the appeal;
- v. Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)