



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1666 OF 2025

1. Gagandeep Kaur w/o Deepak
(Gagandeep Kaur D/o. Sarvjit Singh)
Age : 27 Years, Occ : Household,
R/o. Jahangirpuri, North West Delhi – 110033.
2. Balwinder Kaur w/o Sarvjit Singh,
Age : 40 Years, Occu : Household,
R/o. Jahangirpuri,
North West Delhi – 110033

...PETITIONERS

VERSUS

The State of Maharashtra
Through the Police Station Officer,
Police Station Vazirabad,
Tal. Nanded, Dist. Nanded.

...RESPONDENT

Mr. Devakate Anant Ramahari, Advocate for the Petitioners.
Mr. D. B. Bhange, APP for Respondent – State.

CORAM : ABHAY J. MANTRI, J.
DATE : DECEMBER 24, 2025

JUDGMENT :

1. Heard. **Rule.** Rule is made returnable forthwith and heard finally with the consent of learned counsel for the parties at the admission stage.
2. The petitioners are challenging the judgment and order dated 18th November 2025 passed by the learned Additional Sessions Judge, Nanded, in Criminal Appeal No.48 of 2025, whereby the appeal was dismissed and the order dated 03rd September 2025 passed by the learned

Chief Judicial Magistrate, Nanded in Crime No.349 of 2025 was confirmed, by which the petitioners were sent to the corrective institution i.e. Savitribai Phule Women's State House, Near Kranti Chowk Police Station, Samata Nagar, Chhatrapati Sambhaji Nagar till 02nd September 2026.

3. The learned counsel for the petitioners, during the course of the arguments, vehemently contended that the learned Magistrate as well as the learned Sessions Court failed to consider the provisions of Section 17(2) of the Immoral Traffic (Prevention) Act, 1956 (for short "*ITP Act*") and thereby committed an error in sending the petitioners to the corrective institution. The learned counsel for the petitioners further submitted that, in view of the law laid down by this Court in Renuka Durgappa Kamble Vs. The State of Maharashtra and Shivani Mahadev Das & Ors. Vs. The State of Maharashtra, the impugned orders cannot be sustained in the eyes of the law.

4. In addition, the learned counsel for the petitioners submitted today that the affidavits filed by Deepak Rajbir Singh, husband of petitioner No.1, and Love Deep s/o Sarabjeet Singh, son of petitioner No.2, are tendered across the bar. The same are taken on record and marked "X" and "Y" for identification purposes.

5. In the said affidavits, they have categorically stated that they are ready and willing to take custody of the petitioners, i.e., wife and mother respectively. They have further undertaken that, in future, the petitioners will not engage in any activity which may attract the provisions

of the Immoral Traffic (Prevention) Act. Therefore, the learned counsel for the petitioners urged that the orders passed by the Courts below be set aside, and that the petitioners be released from the corrective institution and that their custody be handed over to Mr. Deepak and Mr. Love Deep.

6. *On the other hand*, the learned APP has opposed the petition and contended that the learned Magistrate had considered the provisions of the IPT Act in its proper perspective and had not committed any error while passing the order. He drew my attention to the report submitted by the Probation Officer as well as the report of the Committee headed by five Members, which were placed before the Court. After considering the same, the learned Magistrate passed the order, which the learned Sessions Court thereafter confirmed. Therefore, he submitted that the learned Magistrate has committed no illegality or perversity to interfere in the Writ Jurisdiction.

7. In response to the affidavits filed by Mr. Deepak and Mr. Love Deep, the learned APP submitted that if they are ready and willing to take custody of the petitioners, then the prosecution has no objection to handing over their custody to them.

8. Having considered the above facts and upon perusal of the report, it emerges that Mr. Deepak is the husband of petitioner No.1, and Mr. Love Deep is the son of petitioner No.2. Both are present in person before the Court today and have filed affidavits, giving undertaking that, in future, the petitioners will not engage in any activity which may attract the

provisions of the Immoral Traffic (Prevention) Act.

9. The report indicates that the probation officer on their own inferred that the husband of petitioner No.1 and the son of petitioner No.2 would not accept them or reside with them, and, therefore, considering the said report, the learned Magistrate had sent them to the corrective institution. However, today both the husband of petitioner No. 1 and the son of petitioner No. 2 are present in person before the Court and have filed their affidavits as stated above. Thus, it is evident that they are ready and willing to take custody of the petitioners and also undertake that, in future, the petitioners will not engage in any activity which may attract the provisions of the Immoral Traffic (Prevention) Act.

10. In these circumstances, in my view, it would be appropriate to release the petitioners from the corrective institution, namely Savitribai Phule Women's State House, Near Kranti Chowk Police Station, Samata Nagar, Chhatrapati Sambhaji Nagar, as such release would not cause any prejudice to the rights of the prosecution. On the contrary, continued detention of the petitioners in the corrective institution would adversely affect their fundamental rights guaranteed under Article 21 of the Constitution of India, which protects the right to life and personal liberty. Therefore, it would be appropriate to release the petitioners from the corrective institution. For that purpose, the impugned orders passed by the learned Courts below deserve to be quashed and set aside.

11. As a result, the petition is allowed in terms of prayer clauses (b) and (c) and the impugned orders passed by the learned Courts below are quashed and set aside. Consequently, the petitioners shall be released from the corrective institution, subject to their filing an undertaking before the concerned Authority that they will not engage in similar activities in future.

(ABHAY J. MANTRI, J.)