

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1727 OF 2016

Manoj Bhaskarrao Shejwal	...	Applicant
Vs.		(Accused No.12)
The State of Maharashtra	...	Respondent

Mr.M.S.Mohite i/b. Mr. Niranjan P. Shimpi, Advocate for the applicant.
Mr. R.M.Pethe, APP, for the State.
Mr. Ishwar V. Kokare, PSI, Sadar Bazar Police Station, Solapur.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 5th October, 2016.

P.C.

1. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No.418 of 2016 registered at Sadar Bazar Police Station for the offences punishable under Section 370(2),(3) of the Indian Penal Code and Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1959.

2. It is the case of the prosecution that on 31.8.2016, at the behest of an NGO namely Sarvajanic Ekta Vikas Agaman raided the premises of Maharaja Hotel at Railway Lines, Solapur, as they had secret information that there are illegal activities going on in the said hotel. The

investigating agency found 11 women and some customers in the said hotel. The offence was registered. In the course of investigation, it was revealed that the original owner of the said hotel is Dinesh Jadhav. However, he is not running the business personally. It appears that the management of the said hotel has changed from time to time. Iqbal Shaikh had taken on leave and licence from Dinesh Jadhav. In the year 2013, Iqbal Shaikh had entered into a leave and license agreement with the present applicant and the applicant was to conduct the business of the said hotel for a period of 11 months. It appears from the papers of investigation that subsequently leave and license agreement was not renewed in favour of the present applicant and it was in existence for a period of 11 months from 1.4.2013.

3. In view of this, the learned counsel for the applicant submits that the applicant has no knowledge about the management or nature of business in Hotel Maharaja. It is also submitted that the applicant is an elected representative and happens to be a Councillor of Solapur Municipal Council. It is submitted that in the event of arrest, the applicant would be exposed to social obloquy and hence it is prayed that the applicant be protected by way of pre-arrest bail.

4. As against this , the learned APP submits that the applicant has criminal antecedents inasmuch as he is prosecuted for the offence punishable under Sections 302 and 325 of IPC etc. and therefore, it is clear that the applicant has no fear of law and, therefore, does not deserve pre-arrest bail.

5. It is seen from the order passed by the Sessions Judge that the applicant has been acquitted in some of the offences. Be that as it may, as on today, it cannot be inferred that on the date of raid, the applicant was conducting the business of the said hotel or had any concern with the management of the said hotel. Perused the statements of the women who were found in the hotel at the time of raid. They have categorically stated that they are indulging into the said profession voluntarily and for several years. They are all major. Hence, it cannot be said that any of the accused would be liable for an offence punishable under Section 370(2),(3) of the Indian Penal Code. In view of this, the application deserves to be allowed.

6. It is made clear that the observations made hereinabove are restricted to an application under Section 438 of Cr.P.C. and shall not be considered in any way in an application for quashing of FIR, discharge

application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on 8th, 9th and 10th of October, 2016 between 10 a.m. to 12 noon and co-operate with the investigating agency to the best of his capacity.

The application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)