

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

CRI. ANTICIPATORY BAIL APPLICATION NO.1185 OF 2016

Rati Krushna Pattanayak	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

**WITH
CRI. ANTICIPATORY BAIL APPLICATION NO.1186 OF 2016**

Anant Jayantilal Patel	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

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Mr.Subhash Jha a/w. Ms.Sanjana Pardeshi i/b.M/s. Law Global,
Advocate for the Applicant.
Mr.R.M. Pethe, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JUNE 19, 2017.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.419 of 2015, registered with Bangur Nagar Police Station, Goregaon, Mumbai. FIR was registered on 21st December, 2015. Offences are registered under Sections 370(1), 294 and 114 read with Section 34 of the IPC and Sections 23 and 26 of Juvenile Justice (Care and Protection of Children)

Act, 2000 read with Section 131(a), 131(aa) read with Section 33(w) of the Maharashtra Police Act as well as Sections 11 and 12 of the Protection from Sexual Offences Act, 2012.

2 The prosecution case is that on the basis of a complaint lodged by one Sanjay Patil, a police head constable attached to Social Security Branch, Crime Branch, the FIR was registered on 21st December, 2015 alleging that when the police raided Taquilla Bar and Restaurant, they found certain immoral and illegal activities being conducted at the said spot. It is further alleged that there were about 35 women available in the said premises who were making indecent gestures. All of them were taken into custody. It is further alleged that applicants are the persons who conduct the said Bar and Restaurant and, therefore, they are involved in the said crime.

3 The applicants preferred an application for anticipatory bail before the Sessions Court at Dindoshi, Mumbai. Interim protection was granted to the applicant on 10th February, 2016. The applicant was granted the said protection on certain conditions.

4 The said application was rejected vide order dated 2nd July, 2016.

5 The applicant, thereafter, preferred present application before this Court seeking anticipatory bail. Vide order dated 19th June, 2016, the interim protection was granted to the applicant on certain conditions.

6 The learned advocate for the applicants submitted that the applicants have not committed the said crime. It is submitted that the conducting agreement was given to another person and the alleged activities were not conducted by applicants. He further submitted that about 35 girls were found on the place of incident and all were major. He pointed out the observations of the Sessions Court while granting bail to the co-accused wherein it is observed that the girls were major. He submitted that the prosecution case is that four girls amongst those who are found at the place of incidence were minor. He pointed out the order dated 21st January, 2016, passed by the Sessions Court in Bail Application No.16 of 2016, wherein the arrested accused were granted bail. He relied upon the observations of the Court in paragraph 10 of the said order. It

was observed that as per the FIR, 35 bar girls were employed and their names have been mentioned in the FIR and more than 98 customers names are mentioned in the FIR. The Court perused the Aadhar Cards of the minor girls. From the Pan Cards and Aadhar Cards reveal that they are not minor. The documents relating to licence/permissions issued by the police, Excise and Corporation Authority were filed on record. The Court had also observed that the girls were found at the scene of offence were major. The learned advocate for the applicant submitted that assuming that four girls were minor, it cannot be said that the person who had permitted the girls to join the said Bar and Restaurant had a knowledge that the girls are minor. It is further submitted that the applicant had attended the police station about 103 times. He submitted that the Sessions Court had rejected the application and one of the ground was that the applicant had committed default in reporting the police station on two occasions. He submitted that there was a default in attendance on account of the fact that the mother of the applicant had expired. This fact is being considered by this Court while granting the interim protection vide order dated 19th July, 2016.

submitted that the observations of the Sessions Court with regards to the fact that four girls were major, cannot be considered because the investigating authority had collected the certificates of examination of four victim girls which states that they were minor. He further submitted that the complicity of the applicants is established by evidence collected by the police during the course of investigation. He submitted that the licence was issued to the applicants to conduct the Bar and Restaurant and there is violation of the conditions imposed in the said licence. He further submitted that there are three other cases registered against the applicant. He, therefore, submitted that the anticipatory bail applications of the applicants be rejected.

8 I have perused the FIR and the other documents on record. The applicant was granted interim protection by the Sessions Court in February 2016. The said interim protection was further continued by this Court vide order dated 19th June, 2016. Applicant had attended the police station on several occasions. Relevant documents are already in the custody of the investigating authority. It is apparent that the girls who joined the Bar and Restaurant had relied upon certain documents like Adhar Card which show that they were major. It further appears that

out of 35 women, 4 were allegedly minor. The learned APP had pointed out the statement of the four minor girls. He had submitted that the statements reveal circumstances in which the victims had resorted to the said job. I have perused the statement. The statement does not mention that they were forced by the applicant to join the said Bar and Restaurant and commit the alleged act. The medical certificates relied upon by the prosecution no doubt mentions that the age of the girls are between 14 to 15 years and one of them was about 16 to 17 years. However, the documents which were referred to by the Sessions Court reflects that the girls were major. The advocate for the applicant had submitted that there are several decisions of the various Courts. Wherein it is observed that the age reflected in the medical examination has to be always considered on the higher side.

9 It is also noted that on account of the attendance of the applicants on several occasions to the concerned police station, custodial interrogation of the applicants is not necessary. In view of the aforesaid circumstances, I am inclined to allow this application.

10 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Anticipatory Bail Application Nos. 1185 of 2016 and 1186 of 2016 are allowed;
- (ii) The interim order dated 19th July, 2016 is hereby confirmed;
- (iii) The applicants are directed to attend the police station as and when called for by the police;
- (iv) Criminal Anticipatory Bail Applications stand disposed off accordingly.

(PRAKASH D. NAIK, J.)