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*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 82 OF 2018
Ganesh Shankar Shetty vs. State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. P.R.Dave for the Applicant.

Mr. Ameet Palkar, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 12th July, 2018.

P.C.

1. The applicant was granted interim relief by an order dated 17.1.2018. It is the allegation against the applicant that applicant is the conductor of Bumper Bar and Restaurant situated at Dongri, Mumbai -9.

2. Heard the learned Counsel for the applicant and the learned APP. Perused the record of investigation.

3. In the present case, the ratio laid down by the Division Bench of this Court in the case of Narendra H. Khurana & Others Vs. Commissioner of Police & Anr. decided on 18th December 2003 in Criminal Application No.2973 of 2002 is squarely applicable. The Division Bench of this Court in the said case has held that, for the purpose

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of attracting/invoking section 294 of the Indian Penal Code, “annoyance to others” is a prerequisite. That the issue of “obscenity or indecency per se” will not arise until and unless there is evidence on record to show that a person at a given time witnessing a particular obscene act was actually annoyed or not. Section 2(8) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (Working Therein) Act, 2016 defines “obscene dance” means a dance that is obscene within the meaning of section 294 of the Indian Penal Code and any other law for the time being in force and shall include other acts mentioned in sub sections (i) and (ii) of section 2(8).

4. The record indicates that, in the present case there is no independent evidence to show that at the given time a person witnessing the said alleged dance was actually annoyed with it or not.

5. In view thereof, the interim relief granted by Order dated 17.1.2018 is hereby confirmed. However, the applicants are directed to attend the Investigating Officer

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as and when called for between 11.00 a.m to 1.00 p.m

upon receipt of Notice under Section 160 of Cr. P.C. from

the concerned Investigating Officer.

6. Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)