

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

ANTICIPATORY BAIL APPLICATION NO. 1531 OF 2018

Kiran Dayashankar Jani

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr.Sanjeev Kadam a/w. Mr.Prashant Raul I/b. Mr. B.L.Jagtap for the Applicant.

Mr. Y.Y. Dabke, APP for the Respondent/State.

Mr. D.T.Ligade, PI, MHB Colony, Police Station, Mumbai.

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**CORAM: PRAKASH D. NAIK, J.
DATED: AUGUST 23, 2018**

P.C. :

1. This is an application for anticipatory bail in connection with CR No.167 of 2018 registered with MHB Colony Police Station, Mumbai for offences under Sections 308, 294, 114 read with 34 of the Indian Penal Code.

2. The case of the prosecution is that the applicant is the owner of the bar namely Sharmili Bar and Restaurant situate at Dahisar. It is alleged that there are some girls, who were dancing

in the said bar and restaurant. The modus operandi of the accused was that as soon as the police arrived at the premises, the girls used to hide themselves in a room, which is congested and without having any ventilation, which may result into suffocation. The prosecution is relied upon the statements of three witnesses/girls, who are working in the said bar and restaurant.

3. The learned counsel for the applicant submits that the manager of the said bar and restaurant is already arrested and is in custody. The bar girls and the customers were arrested, who are released on bail. The offence under Section 294 of the Indian Penal Code is bailable in nature and taking the prosecution case as it is, the offence under Section 308 of the Indian Penal Code is not made out.

4. Learned APP on the contrary submits that the room where the bar girls were being hidden as soon as the police arrived was small room, which would result into suffocation and, therefore, Section 308 of the Indian Penal Code is made out. It is submitted that there are cases registered against the said bar and restaurant.

5. Taking the case of the prosecution as it is, the question is whether Section 308 of the Indian Penal Code is made out. The investigation is still going on and the chargesheet is likely to be filed against the accused and it could not be appropriate to further analyze the question of applicability of Section 308 of the Indian Penal Code. However, going through the statements of the witnesses and also considering the fact that other offence is bailable in nature, anticipatory bail can be granted to the applicant. The manager of the said bar and restaurant is also arrested and he is in judicial custody. The girls, who were working in the said bar were arrested and they are on bail. In the circumstances, the case for grant of anticipatory bail is made out. Hence, I pass following order:-

ORDER

- i) Anticipatory Bail Application No. 1531 of 2018 is allowed.
- ii) In the event of arrest of the applicant in connection with CR No.167 of 2018 registered with MHB Colony Police Station, Mumbai for offences under Sections 308, 294, 114 read with 34 of the Indian Penal Code,

the applicant shall be released on bail on furnishing PR Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount.

- iii) The applicant shall attend MHB Colony Police Station, Mumbai once in a week on Saturday between 10.00 a.m to 12.00 noon till filing of the chargesheet.

6. Anticipatory Bail Application No. 1531 of 2018 stands disposed of.

(PRAKASH D. NAIK, J.)