

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

BAIL APPLICATION NO.2388 OF 2018

Uday Madhav Shetty & Anr.

.. Applicants

Vs.

State of Maharashtra

.. Respondent

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Mr.S.R. Gaud, Advocate for the Applicants.
Mr.M.G. Patil, APP for the Respondent – State.
Mr.Rajendra Utekar, PI Shivaji Park Police Station, Mumbai,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 4, 2018.

P.C. :

This is an application for bail in connection with C.R. No.176 of 2018, registered with Shivaji Park Police Station, Mumbai, for the offences punishable under Sections 308, 294, 114 read with Section 34 of Indian Penal Code ("IPC" for short) and Sections 3, 8(1)(2)(4) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (working therein) Act, and under Section 131 of Maharashtra Police Act.

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Applicants were arrested on 9th September, 2018.

3 The case of the prosecution is that information was received by the police that obscene and indecent acts of bar girls are going on under the garb of Orchestra in hotel, namely, Tandor Restaurant and Bar situated at Matunga, Mumbai. Hence, it was decided to conduct raid over such premises. Accordingly, police conducted raid over the hotel premises and found that one victim girl was dancing in indecent manner in the hall area and customers were provoking her by showing Indian currency notes. Search was conducted at the hotel, and, it was found that there was a hidden room having no exhaust and ventilation systems, and, around nine girls were found in the said room. In view of the above, FIR under Section 308 of IPC and other provisions, as stated above, was registered.

4 Applicants were arrested and produced before the competent Court for remand. It is the contention of the applicants that on the first day of remand, they were remanded to judicial custody. It is further contended that Sections 294 as well as 308 of IPC are not attracted in this case. Taking the prosecution case as it is, it cannot be said that there was an attempt to commit culpable homicide, as contemplated under Section 308 of IPC. The girls found at the scene of offence were major. Their

statements were recorded. It is submitted that the applicants are in custody from the date of arrest and further detention of the applicants is not necessary.

5 Learned APP submitted that the applicants were working as manager and cashier at the said restaurant. One of the girl was dancing in the hall of the restaurant. The acts amounts to violation of Section 294 of IPC. It is further submitted that nine girls were found in a secrete room, where there was no proper ventilation and on account of suffocation, there was a likelihood of homicide and Section 308 of IPC, is attracted.

6 Section 294 of IPC is punishable with an imprisonment which may extend to three months. The said provision contemplates that whoever, to the annoyance of others does any absence act in any public place, or signs, recites or utter any obscene song, ballad or words, in or near any public place, shall be punished for the said offence. There is no complaint from any customers. Further custody of the applicants is not necessary on the first day of remand they were remanded to judicial custody. Learned APP submits that one more case is registered against the applicant no.1 under Section 294 of IPC. As further

custody of the applicants is not necessary, the case for grant of bail is made out.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2388 of 2018, is allowed;
- (ii) Applicants are directed to be released on bail in connection with C.R.No.176 of 2018, registered with Shivaji Park Police Station, Mumbai, on their furnishing P.R. Bond in the sum of Rs.20,000/-, each, with one or more sureties in the like amount;
- (iii) Applicants shall report Shivaji Nagar Police Station, Mumbai, once in the month on first Friday of the month between 11:00 a.m. to 01:00 p.m., till further orders;
- (iv) Applicants shall not tamper with the evidence and/or pressurize the prosecution witnesses;

- (v) Applicants are permitted to furnish cash security of Rs.20,000/-, each, in lieu of surety for a period of two weeks from today;
- (vi) Bail Application No.2388 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)