

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 1742 OF 2019

1. Divakar Domba Shetty .Applicants
2. Satish V. Devadiga

Vs.

The State of Maharashtra .Respondent

Mr. V. K. Dubey i/b. V. K. Dubey & Associates, Advocate, for the Applicants

Mr. S. V. Gavand, APP, for the Respondent – State

Mr. Vijay R. Sonar, PI, Bangur Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 08.08.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek pre-arrest bail in connection with C. R. No. 351 of 2018 registered with the Bangur Police Station, Mumbai, for the alleged offences punishable under Sections 308, 370, 294, 194 r/w 34 of the Indian Penal Code, under Sections 75 & 77 of the Juvenile Justice (Care & Protection of Children) Act and under Sections 3 & 8(1), 8(2), 8(4) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms

and Protection of Dignity of Women (working therein) Act, 2016.

3. Perused the papers. According to the prosecution, the Applicant No. 1 is the owner of a bar by the name “Missile Restaurant & Bar (Zina The Bar)”. The Applicant No. 2 is stated to be the Manager of the said bar. It is the prosecution case that in the said Restaurant & Bar, girls below the age of 18 years were kept as waiters and were used for doing vulgar / obscene dance and were also offered to the patrons visiting the bar. It is also alleged that the Applicants had kept the girls in a small room, without any ventilation.

4. Learned APP on instructions submits that during the course of investigation, section 370(2) of the Indian Penal Code was deleted. As far as section 308 is concerned, it is prima facie doubtful whether the said provision will apply in the facts. As far as sections 75 and 77 of the Juvenile Justice Act are concerned, it is also prima facie doubtful whether the said provisions would apply, considering that the said girls, who are alleged to be minors, have given their Birth Certificates which show that they are major and not minor. It also appears from a perusal of the statements of the rescued girls that they were doing the work voluntarily.

5. Having regard to what is stated aforesaid, custodial interrogation of the Applicants is not warranted. Accordingly, the Application is allowed and the Applicants are granted pre-arrest bail on the following terms & conditions :-

ORDER

(i) In the event of arrest, the Applicants be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 20,000/- each** with one or two sureties in the like amount;

(ii) The Applicants shall report to the investigating officer of the concerned police station on **19th, 20th & 21st August, 2019** between **10.00 a. m. and 12.00 noon** and thereafter, **as & when called for** by the investigating officer;

(iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicants to co-operate with the conduct of the investigation.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie*, and are confined to this Application.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)