

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1904 OF 2021

Uliyargoli Nagesh Padmappa SuvarnaApplicant

Versus

The State of MaharashtraRespondent

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Mr. Pankaj Dwivedi for the Applicant.
Mr. S. R. Agarkar, APP for the Respondent-State.
Mr. Sanjay S. Shejwal (Police Havaladar), Kapporbawadi Police
Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th SEPTEMBER 2021

P.C.:

1. This is an application for Anticipatory Bail in C. R. No. 883 of 2021, registered with MIDC Police Station for the offences punishable under Sections 188, 269, 294, 114 r/w 34 of the Indian Penal Code ("IPC" for short) and Section 51(B) Disaster Management Act r/w Sections 3, 8(1) (2) of the Maharashtra Hotel and Restaurant Prevention of Obscene Dance Act.

2. The case of the prosecution is that the raid was conducted "Sadguru (Rubi) Bar and Restaurant" on 26th December, 2020. It was found that music was loudly played in the bar and twelve to thirteen women were performing obscene dancing in the presence

of customers. The customers were throwing currency notes at them. The police instructed the inmates of the bar to stop music. Panchanama was recorded. The manager and cashier of the bar were present. The raiding party came to know that the bar and restaurant is owned by the Applicant. The First Information Report was registered.

3. The Applicant preferred the application for Anticipatory Bail before the Court of Sessions, which has been rejected by the order dated 4th June, 2021.

4. The learned Counsel for the Applicant submits that the Applicant is the senior citizen aged about 64 year. The business was conducted with all licenses including license for performing orchestra. The Applicant is suffering from highper tension and diabetese. Due to ill health, he was not able to run the business of the bar and restaurant. Conducting agreement / leave and license agreement dated 4th February, 2020 was executed between the Applicant as a licensor and Mr. Vasu Shankar Shetty as a licensee. The Applicant had allowed to run live orchestra business for a period of twelve months to the concerned licensee, which was extended to three terms of twelve months each. It is submitted that as per the clauses 7, 10 and 16 of the conducting agreement, which were noted that licensee shall conduct the orchestra business, as per the rules and regulations. In case of breach of rules and

regulations, the licensor shall not be liable. The licensee would conduct orchestra as per the rules. In case of Court cases initiated by the authority, it will be the responsibility of the licensee to settle the matter. The Applicant was not present at the place of incident, when the premise was raided. His custodial interrogation is not necessary. Except stating that he was the owner of the bar and restaurant, there is no other evidence to show that the Applicant is conducting the obscene dancing business through his employees.

5. The learned APP submitted that the involvement of the Applicant was disclosed during the investigation. He is the owner of the bar and restaurant. The licenses were issued to him. He cannot feign ignorance about the activities performed in the bar and restaurant. He cannot avoid his responsibility by stating that the bar is conducted by some other persons. In the past, four cases were registered against the Applicant, vide C. R. No. 376 of 2016, registered with MIDC Police Station for the offences punishable under Sections 294, 114 r/w 34 of the IPC and Sections 3, 8, (1), (2), 8(4) of Protection of Women Act, 2016, C. R. No. 592 of 2016 under Sections 294, 114 r/w 34 of IPC and Sections 3, 8, (1), (2), 8(4) of Protection of Women Act registered with MIDC Police Station, C. R. No. 243 of 2017 for the offences punishable under Sections 294 and 34 of IPC registered with MIDC Police Station and C. R. No. 449 of 2019 registered with MIDC Police Station, for

the offences punishable under Sections 294, 114 r/w 34 of IPC and Sections 3, 8, (1), (2), 7(4) of Protection of Women Act.

6. The raid was conducted on 26th December, 2020 Sadguru (Rubi) Bar and Restaurant situated at Marol Makhwana Road, Andheri East. Obscene dancing was being performed on the first floor of the restaurant. The Manager, Cashier and staff were arranging the obscene dancing. The customers were supporting the dances of ladies, who were performing. There was violation of the provisions of law and social distancing. Forty one persons were arrested. The involvement of the Applicant was disclosed. The claim of the Applicant is that he is having all the licenses. The copy of the license for orchestra dated 18th December, 2009 has been annexed to the application. The premises license was issued on 18th December, 2009, renewal is not on record. It is pertinent to note that the Applicant forwarded a letter dated 5th January, 2021, stating that he had misplaced the license. The said letter was forwarded, after the raid was conducted at the premises. Thus, apparently there was no license of performing orchestra since the previous license had left and subsequently it has been claimed by the Applicant that he has lost the license. The application was made on 5th January 2021. The statements of witnesses show that the Applicant is the owner of the bar and restaurant, where obscene dancing being conducted. The statement of the witnesses shows

that he is the owner of the same. The statement also indicates that the Applicant was present at the restaurant, when the raid was conducted and he ran away. There are statements of four witnesses stating the above fact. Four other cases were registered against the Applicant for the similar offence in the past. He cannot feign ignorance that some other persons was conducting the business. Hence no case for granting pre-arrest bail in this application is made out.

ORDER

Anticipatory Bail Application No. 1904 of 2021 is rejected and disposed of.

(PRAKASH D. NAIK, J.)