

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

ANTICIPATORY BAIL APPLICATION NO. 1497 OF 2019

Omaer Shahabuddin Shaikh .. Applicant
V/s.

The State of Maharashtra ..Respondent

Mr. Aabad Ponda, Senior Advocate a/w Karma Vivan for the Applicant.

Ms. Veena Shinde, APP for the Respondent/State.
API Mr. Yunus Shaikh attached to Pydhonie Police Station present.

CORAM : C.V. BHADANG, J.

**DATE : 31ST JULY, 2021
(Through Video Conferencing)**

PC.

1. The Applicant, apprehending his arrest in connection with the investigation of Crime No. 136 of 2019 registered with Paydhonie Police Station, Mumbai under Section 370(4) read with Section 34 of I.P.C. and Section 75 and 79 of the Juvenile Justice (Care and Protection) Act, 2015 and Section 3 and 14 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 is seeking pre-arrest bail.

2. The Applicant is the owner of Shalimar Hotel situated at Bhendi Bazar, Mumbai. According to the complaint lodged by Smt. Anagha Patole, Government Labour Officer, it is alleged that there were eight children between age of 15 to 17, who were employed at the said hotel. It is not in dispute that Mr. Wasim Yusuf Pathan was working as a Manager in the hotel. Mr. Wasim Pathan was arrested and has been released on bail. A perusal of the statement dated 19.06.2019 of Smt. Anagha Patole shows that the children were employed by the Manager.

3. I have heard the learned Senior Advocate for the Applicant and the learned APP.

4. Prima facie, it appears that a child as defined in Section 2(ii) of 1986 Act is a child who has not completed fourteenth year of age. An 'Adolescent' is defined in Section 2(i) of 1986 Act to mean a person who has completed fourteenth year of age, but has not completed eighteenth year. It can thus be seen that the children, who were allegedly employed in the hotel would be adolescents. The learned Senior Advocate for the Applicant has pointed out that as per Section 14(1A), the punishment for employment of an adolescent is imprisonment for a term which shall not be less than

six months, but which may extend to two years or with fine. It is thus pointed out that offence under Section 14(1A) of the 1986 Act would be a bailable offence.

5. Insofar as offence under the Act of 2015 is concerned, it is pointed out that Section 79 of the 2015 Act pertains to a person who is having custody, control or charge over the child. It is submitted that the Applicant was not having any control or charge or the custody of the children, nor there are any allegations that the children were abandoned, abused or were assaulted. The learned APP pointed out that there are allegation of assault against the Manager, who is already released on bail. It is pointed out that three out of eight children are minor. They have been rescued and they are presently in Children Home at Lucknow. The rest of five children have attained majority. The record further discloses that interim protection was granted to the Applicant on 10.07.2019, which is operating. In such circumstances, the following order is passed:

ORDER

i) In the event of arrest, in connection with the investigation of Crime No. 136 of 2019 registered with Pydhonie Police Station, Mumbai, the applicant shall be released on bail on

executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall report to the Investigating Officer as and when required and shall not tamper with the prosecution evidence/witnesses.

iii) In the event of breach of any of the conditions, the bail is liable to be cancelled.

6. The application is disposed of in the aforesaid terms.

C.V. BHADANG, J.