

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1544 OF 2022

Aashish Harishankar Tiwari .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Aashish Dube with Ms.Sarita Tripathi for the Applicant.
Ms.Rutuja Ambekar, A.P.P. for the State/Respondent.
PI Sanjay Marathe, attached to Dahisar Police Station, present.

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CORAM: BHARATI DANGRE, J.
DATED : 03rd OCTOBER, 2022

P.C:-

1. The applicant was directed not to be arrested in connection with C.R.No.524 of 2022, which invoke Sections 294, 109, 114, 188, 308 of the Indian Penal Code and Sections 3, 8(1)(2)(3)(4)(5)(6) of Maharashtra Prohibition of Obscene Dance in Hotel, Restaurant & Bar and Protection of Dignity of Women Act, 2016.

Learned A.P.P. is keen in insisting on the aspect that the applicant is charged under Section 308, which provide punishment for attempt to commit culpable homicide.

A careful reading of Section 308 would reveal that whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder and such offence shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, it shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

2. The applicant face an accusation that he had kept some girls, who were rendering services in his bar/restaurant and hotel and during the course of investigation, some statements are recorded, where it is stated that the place where the girls were kept was a small room, which was closed from all sides and there was no light and electricity in the said room. It is not clear, for how much period of time, the girls were kept there because it is stated by one of the witness/victim that all other women, except four were kept in that room. The witnesses have stated that they faced difficulty in breathing. However, none of the statement disclose that they were permanently staying there, but before they could have their

performance, they were occupying the said room for some point of time, is the accusation. In any case, learned A.P.P. now submits that the said room is now demolished

3. Learned A.P.P. states that leave and license agreement, which was produced by the applicant is in the name of Uday Sundra Poojari and Umesh Gopal Gowda, but it was the applicant, who was actually operating the said license, though an impression is given that that these persons were running the business.

In any case, in absence of any appropriate section invoked against the present applicant, accusing him of committing such an act, I do not think that the custodial interrogation is necessary.

Hence, the following order.

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.524 of 2022 registered with Dahisar Police Station, applicant-Aashish Harishankar Tiwari shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

(c) The applicant shall report to the concerned police station as and when called for.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)