

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

ANTICIPATORY BAIL APPLICATION NO.1833 OF 2023

1. Disha Rajesh Ayare
2. Ajay Vedu Ayare
3. Manjunatha Lakshmana Shetty
4. Umanath Poojary

...Applicants

Versus

The State of Maharashtra

...Respondent

...

Ms Divya R. Gupta for the Applicants.
Ms A.A. Takalkar, APP for the Respondent-State.
Ms Suvidha P., API, Dindoshi Police Station, present.

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Date: 2023.07.07
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CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 3rd JULY, 2023.

P. C. :-

1. The Applicants apprehend their arrest in C.R. No. 1218 of 2022 registered with Dindoshi Police Station, Mumbai, for the offences punishable under Sections 3, 8(1), (2) and (4) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (working therein) Act, 2016.

2. Heard Ms Divya Gupta, learned counsel for the Applicants and Ms A.A. Takalkar, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the

learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by police Head Constable -Mr. Pramod Jangam. He claims that pursuant to the secret information received, raid was conducted in Samudra Restaurant and Bar at Malad. It is stated that some girls were seen dancing in the hotel and making obscene gestures. It is stated that Applicant No.3 is the owner of the premises and Applicant Nos.1 and 2 are the license holders and that the Applicant No.4 is the Manager of the said restaurant.

4. The Applicants have placed on record License dated 26/03/2009 issued under Rule 109 of the Rules for Licensing and Controlling Places of Public Amusement (other than Cinemas) and performances for Public Amusement including Melas and Tamashas, 1960, authorising the Applicant to keep a place of Public Amusement known as Orchestra at Samudra Restaurant and Bar, Malad. It is stated that the said license has been extended from time to time. It is to be noted that the girls found at the scene of offence were major. Their statements are not recorded. There is no prima facie material to indicate that there was obscene dance in the hotel within the

meaning of Section 3(8) of the Act. Even otherwise the offence alleged is punishable with maximum punishment of five years. The nature of accusations does not justify custodial interrogation.

5. Considering the nature of accusations and the material in support thereof, in my considered view this is a fit case for exercise of discretion under Section 438 of the Cr.P.C. in favour of the Applicants. Hence, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicants in C.R. No. 1218 of 2022 registered with Dindoshi Police Station, Mumbai, they shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- each with one or two sureties to the like amount;

(ii) The Applicants shall report to the concerned Investigating Officer for a period of two days i.e. on 07/07/2023 and 08/07/2023 between 10.00 a.m. to 1.00 p.m. and thereafter as and when required by the Investigating Officer for the

purpose of investigation;

(iii) The Applicants shall not tamper with the prosecution evidence and or influence the witnesses in any manner;

(iv) The Applicants shall keep the Investigating Officer informed of their current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)