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

ANTICIPATORY BAIL APPLICATION NO.3334 OF 2022

Abdul Hameed Ali Byari

...Applicant

vs.

State of Maharashtra

...Respondent

None for the Applicant.

Mr. A. R. Kapadnis APP for the Respondent-State.

Mr. Sagar Takale, API from APMC police station present.

CORAM : S. M. MODAK, J.

DATED : 3RD APRIL 2023

P. C. :

1. No one is present on behalf of the Applicant.
2. Heard learned APP for the Respondent-State.
3. Few of the offences are under sections 4, 12, 14, 16 and 17 of POCSO Act and that's why this Court was pleased to issue notices to all four, Respondent Nos.2 to 5-victims. Service is effected and they have put in their appearance through Advocate Shri Relekar.
4. Even though learned Advocate for the Applicant is not present, learned APP on the basis of charge-sheet filed against original

accused persons and charge-sheet submitted against subsequently arrested accused Manoj Mali, pointed out to me the documents collected during the investigation and statements.

5. Prostitution business was carried out in Hotel Blue Star Bar and Restaurant, APMC Market, Navi Mumbai, and arrested accused and absconding accused were responsible for those activities and service of minor girls was provided therein. FIR is lodged on 21st November 2019 by one Rani Kale, who is ASI attached to Crime Branch, Navi Mumbai under sections 370(2)(3)(4), 366(a), 372 of IPC and sections 3, 4 and 5 of the PITA Act and sections 4, 12, 14, 16 and 17 of POCSO Act. Certain persons were found there. Certain objectionable articles were also found from them. Some of them were charge-sheeted.

6. During investigation it was disclosed that one Gulab Nabi Naimuddin Khan is owner of the premises and he has given those premises on leave and license basis to present Applicant as per agreement dated 29th August 2018. (page no. 287) The Applicant conducted business of Bar and Restaurant. Furthermore, the Applicant has also given indemnity bond on 9th February 2018. (page 355).

7. It is not the case of the prosecution that present Applicant was found at the time of raid. It is not the prosecution case that present Applicant-accused arranged for either of the girls or ladies. During investigation, the police have recorded statement of notary by name Virendra Singh before whom the MoU dated 10th July 2018, was executed. It was in between present Applicant and said Manoj Mali. Furthermore, the Power of Attorney dated 20th September 2018 (page no.795), was also executed before him. He has admitted about the execution of MoU and Power of Attorney before him. The statement is annexed to supplementary charge-sheet. Its copy is taken on record and marked as Annexure "X". The applicant has assigned the business of M/s. Blue Star Restaurant and Bar to arrested accused Manoj Mali. The prosecution has verified the genuineness of the execution through notary and they does contend that they are bogus documents.

8. In view of above facts, I think the Applicant can be granted anticipatory bail. Even supplementary charge-sheet is submitted, in which the Applicant has been shown as wanted accused. I do not think that custodial interrogation of the Applicant is required. Hence, the following order is passed :

O R D E R

- (a) In the event of arrest the Applicant-Abdul Hamee Ali Byari, be released on bail on furnishing personal bond and surety bond of Rs.25,000/- in connection with C.R. No.247 of 2019, registered with APMC police station, Vashi, Navi Mumbai for the offences punishable under sections 370(2)(3)(4), 366(a), 372 of IPC and sections 3, 4 and 5 of the PITA Act and sections 4, 12, 14, 16 and 17 of POCSO Act.
 - (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
 - (c) The Applicant to attend the trial Court once the charge-sheet is filed.
 - (d) Needless to say, violating of the condition above will make the Applicants liable for cancellation of anticipatory bail.
9. Application is disposed of accordingly.
10. These are my prima facie observations and the trial Court may not be influenced by that.
11. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]