

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6841 OF 2025**

Mahadev Laxman Anandkar
of Solapur, aged 62 yers,
Indian inhabitant, Occupation-Business,
Sole Proprietor of M/s. M. A. Capital Club
& Bar situated at Gat No.130, Mouje Hangloor,
Taluka North Solapur, District Solapur.

.....Petitioner

Versus

1. The Collector & District
Magistrate of Solapur,
having his office at Solapur.
2. The Hon'ble Divisional Commissioner,
Office of the Divisional Commissioner, Pune
Division, Vidhan Bhavan Pune,
District Pune-411 001.
3. The State of Maharashtra,
through the Hon'ble Principal Secretary,
Home Deparment, Mantralaya, Mumbai

.....Respondents.

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Mr. Ritesh M. Thobde a/w Mr. Darshan Singh Rajpurohit, Advocate
for Petitioner.

Mr. Sanjay D. Rayrikar, AGP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 12th NOVEMBER, 2025.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties,
matter is taken up for final hearing at admission stage.
2. The present Writ Petition takes exception to orders dated
24.03.2025 and 04.09.2023 passed by respondent nos.2 and 1

respectively, thereby refusing Premises and Performance License to petitioner under Licensing and Controlling Places of Public Amusement (other than Cinemas) and Performances for Public Amusement, including Melas and Tamashas Rules, 1960 (for short 'Rules of 1960').

3. The petitioner is proprietor of M/s. M. A. Capital Club and Bar. He holds club license and FL-IV license. The petitioner applied for Premises and Performance License to Collector and District Magistrate, Solapur/respondent no.1 alongwith certificate prescribed under Rule 92 of Rules of 1960. The petitioner had raised necessary infrastructure required for Orchestra License.

4. Pursuant to petitioner's application, respondent no.1 called for report from Superintendent of Police, Solapur (Rural), who submitted his report negatively recommending for grant of license to petitioner on the ground that petitioner is likely to create law and order problem or breach of peace, giving reference to two criminal cases registered against petitioner. Eventually, respondent no.1 rejected petitioner's application vide order dated 04.09.2023. Aggrieved petitioner filed Appeal before respondent no.2, who has been delegated powers by State Government. However, respondent no.2 concurring with respondent no.1, dismissed Appeal filed by petitioner. Hence, this Writ Petition.

5. Mr. Ritesh Thobde, learned Advocate appearing for petitioner submits that respondent no.1 refused license to petitioner only on the basis of police report, particularly giving reference to registration of crime against petitioner. There is no independent application of mind. He would submit that even Appellate Authority exercising jurisdiction under Section 33 (1) of Maharashtra Police Act, 1951 relied upon report of Superintendent of Police, Solapur and referring to registration of Crime Nos.169/2016 and 555/2022 against petitioner concurred with order passed by respondent no.1. Mr. Thobde would urge that mere pendency of criminal cases cannot be ground to refuse license. In support of his contentions he relies upon order dated 12.10.2006 passed by Division Bench of this Court in **Writ Petition No.5675/2006 (*Maruti Vitthal Gopale Vs. The State of Maharashtra and Anr.*)**, order dated 31.08.2010 passed in **Writ Petition No.7726/2010 (*Kisan S/o. Sahadu Borude Vs. The State of Maharashtra and Others*)** and judgment of Single Judge of this Court dated 15.04.2025 in **Writ Petition No.1386/2025 (*Prabhakar Keshav Kale Vs. The collector and District Magistrate of Solapur and Ors.*)**.

6. Per contra, Mr. Rayrikar, learned AGP relying upon affidavit-in-reply filed by Mr. Kumar Ashirwad, District Magistrate, Solapur submits that report of Superintendent of Police, Solapur (Rural) referred to criminal background of petitioner and opined that possibility of creating law and order situation in future in case grant

of license cannot be ruled out. He points out that Crime No.555/2022 is registered against petitioner for offence punishable under Section 65(e) of Maharashtra Prohibition Act alongwith offences under Indian Penal Code. Similarly, Crime No.169/2016 is registered for offences under Indian Penal Code, for which R.C.C. No.1533/2016 is subjudice.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of impugned order, it is evident that District Magistrate/respondent no.1 refused license to petitioner relying upon contents of police report, thereby negatively recommending grant of license to petitioner. Since there are two offences registered against petitioner, police report stipulates possibility of law and order situation in future. The order passed by respondent no.1/Appellate Authority also reiterates aforesaid reason for refusal of license to petitioner. The Division Bench of this Court in **Writ Petition No.7271/1999 (Dilip J. Bhatia Vs. The commissioner of Police, Thane dated 20.07.2000)** considered issue as to renewal of license and observed thus:

“This Court has held that pendency of prosecution cannot be a ground for refusing to renew a licence to carry on the said business. Principle underlying the said decision is that even if a criminal case is pending, that by itself cannot be a ground so long as the licence holder himself or his agent or servant is convicted of the said offence. Our criminal jurisprudence recognizes that until a person is tried and held guilty, he should be treated as innocent. Other decisions have also dealt with the same subject matter, which have been included

in the writ petition compilation. I do not think that it is necessary for me to refer to each of the said decision as the consistent view of this Court has been that pendency of the criminal proceeding cannot be a ground for cancellation of licence. Accordingly, petition should succeed of this issue.”

8. The aforesaid legal position is reiterated by another Bench of this Court in case of **Maruti Vitthal Gopale** (supra). Similarly, in case of **Prabhakar Keshav Kale** (supra) this Court observed that mere registration of offence or pendency of criminal case cannot be ground for refusal to renew license.

9. In present case, it has been brought on record that R.C.C. No.1533/2016 arising out of Crime No.169/2016 is ended in acquittal vide judgment and order dated 11.09.2023 passed by Judicial Magistrate First Class, Solapur. Another Crime No.555/2022 is pending trial. However, that itself cannot be taken as ground to refuse license for Orchestra bar. It is trite that, unless person is convicted for any offence, he cannot be tagged as criminal or refused license, if otherwise he is compliant of requirement under relevant Rules. Perusal of affidavit-in-reply nowhere depicts that petitioner lacks any other requirement for grant of license. The respondent nos.1 and 2, who are Competent Authority in matter of grant of license could not have simply relied upon negative recommendation of police authority, which is based on mere registration of offence against petitioner without attributing any specific act or incident that

would justify apprehension that petitioner is likely to create law and order situation. In that view of matter, this Court holds that impugned orders are unsustainable.

10. In result, Writ Petition is allowed in terms of prayer Clause (a).

11. The respondents shall grant application dated 23.09.2022 filed by petitioner for grant of Premises and Performance License for having Orchestra programme, if he is otherwise eligible in terms of Rules.

12. Rule made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE