

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 6449 OF 2025**

Ratnakar Martha

.. Petitioner

Vs.

State of Maharashtra

.. Respondent

Mr. Virat Agarwal, Advocate for the Petitioner

Mrs. M. M. Deshmukh, I/C P.P. with Mr. A.I. Satpute, Addl. P.P. for the Respondent-State.

Mr. Bajrang Desai, PSI, Samta Nagar Police Station, present.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 10th MARCH 2026

P.C. :

1. The Petitioner is arraigned as an accused in FIR No.740 of 2017 dated 17th December 2017 registered with Samta Nagar Police Station.

The Petitioner visited one Nityanand Bar & Restaurant located at Hanuman Nagar, Arkurdi Road, Kandivali (East), Mumbai on 16th December 2017. A raid was conducted by the police and several

persons were arrested including the Petitioner. The FIR was registered against several persons including the Petitioner under the provisions

of sections 370(4)(5), 294, 114 read with Section 34 of the Indian Penal Code, 1860 read with sections 3 and 8(1)(2)(4) of the

Maharashtra Prohibition of Obscene Dance in Hotel and Restaurants and Protection of Dignity of Women Act, 2016, read with Sections 75

and 79 of the Juvenile Justice Act 2015 and under Section 131(1) of

the Maharashtra Police Act, 1951.

2. Mr. Virat Agarwal, the learned Advocate for the Petitioner submits that Division Bench of this Court by its order dated 25th April 2024 in *Pranav H. Patel v. The State of Maharashtra & Anr.* passed in Writ Petition No.1506 of 2024 on 25th April 2024 has quashed the proceedings arising out of the impugned FIR. He submits that the Petitioner is identically placed and the FIR indicates presence of the Petitioner at the dance bar as a customer. No specific *overt-act* has been attributed to the Petitioner. He submits that the Petitioner was not involved in the trafficking of minors and was not in charge or had any control over the dance performance. The aforesaid order passed by the Division Bench of this Court applies to the case of the Petitioner as well.

3. Mr. Satpute, the learned APP confirms that the order of the Division Bench which arises out of the said FIR would apply to the case of the Petitioner as well. For the sake of convenience the order of the Division Bench dated 25th April 2024 passed in Writ Petition No.1506 of 2024 (*Pranav H. Patel v. the State of Maharashtra and Anr.*) is extracted below:-

“PC:-

1. Leave to amend. Amendment be carried out forthwith.
2. The petitioner challenges the proceedings in Sessions Case No. 272 of 2018 pending before the Sessions Court at Dindoshi, Mumbai. The proceedings are arising out of First Information Report (FIR) dated 17.12.2017 registered with Samata Nagar Police Station vide C.R. No. 740 of 2017 for offences under Sections 370(4)(5), 294, 114 read with 34 of the Indian Penal Code, Sections 3, 8, (1)(2)(4) of the Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women Act, 2016 (for short ‘the Maharashtra Prohibition of Obscene Dance in Hotels and Bar Act’), Sections 75, 79 of the Juvenile Justice Act, 2015 and Section 131-A of the Maharashtra Police Act.
2. The case of the prosecution is that on 17.12.2017, on receipt of information, the police raided premises wherein the obscene dances were allegedly performed by some of the women. The petitioner and several other persons were present at the premises. It is alleged that the petitioner is one of the customer who was allegedly encouraging the dancers.
3. Learned Advocate for the petitioner submitted that the petitioner is undisputedly not concerned with the offence under Section 370(4)(5) of the IPC. The provisions of the Maharashtra Prohibition of Obscene Dance in Hotels and Bar Act are not attracted against the petitioner. In absence of any cogent evidence to connect that the petitioner has encouraged or abetted the woman performing obscene dance, the petitioner cannot be prosecuted for the alleged offences.
4. Learned Advocate for the petitioner has placed reliance upon the following decisions of this Court:
 - (i) *Veer V. Dadhia vs. The State of Maharashtra*¹;
 - (ii) *Nilesh N. Gadge vs. State of Maharashtra & Anr.*²
 - (iii) *Sumeet H. Sarin vs. The State of Maharashtra*³;
 - (iv) *Lalit and ors. vs. The State of Maharashtra*⁴;
 - (v) *Jitendra R. Kamat vs. The State of Maharashtra & Anr.*⁵;
 - (vi) *Rushabh M. Mehta and anr. vs. State of Maharashtra*⁶.
5. Learned APP submitted that the petitioner was present at the scene of offence. He was encouraging the dancers. Charge-sheet is filed against the petitioner.

1 Criminal Writ Petition (St) No.18625 of 2023 decided on 8.4.2024
2 Criminal Application No.1032 of 2022 decided on 21.3.2024
3 Criminal Writ Petition (ST) No.866 of 2023 decided on 14.12.2023.
4 CDJ 2023 BHC 1581
5 Criminal Writ Petition No.4603 of 2021 decided on 6.9.2022
6 Criminal Writ Petition (St) No.4799 of 2020 decided on 14.1.2021

6. We have perused the first information report and charge-sheet. Apparently, the name of petitioner is reflected in FIR as customer along with several other persons who were present at the hotel where raid was conducted. No specific overt-act is attributed to him. The petitioner is not concerned with the dance performances or connected with the hotel where the dance was performed.

7. In case of *Jitendra R. Kamat (supra)*, Section 294 of the IPC was invoked along with other provisions. The factual matrix of the said case would indicate that the accused therein was present at the spot when the ladies were dancing in obscene manner. This Court held that no specific allegations were made against him. Nor any specific role was attributed to the accused. He was present at the place where raid was conducted. Relying upon the decision of the Apex Court in *State of Haryana and Ors. vs. Bhajan Lal and ors*⁷, the proceedings were quashed.

8. Similarly, in case of *Rushabh M. Mehta (supra)* this Court was dealing with similar proceedings wherein the customer was present at the place where indecent dance was performed, was impleaded as accused. This Court held that mere mentioning the name of accused in the FIR and the charge-sheet would not suffice and there is lack of material to indicate that the ingredients of the offences alleged under the said Act were existing, the proceedings were quashed.

9. The FIR indicates the presence of the petitioner at the place of incident. No specific overt-act has been attributed to the petitioner. In absence of any cogent evidence, the petitioner cannot be prosecuted for the said offences.

ORDER

A. Criminal Writ Petition is allowed.

B. The proceedings in Sessions Case No.272 of 2018 pending before the Sessions Court at Dindoshi, Mumbai arising out of FIR dated 17.12.2017 registered with Samata Nagar Police Station vide C.R. No. 740 of 2017 are quashed and set aside qua the petitioner.”

4. Having perused the said order, it appears that the Petitioner is identically placed as the petitioner in *Pranava H. Patel*’s case and who was original accused no.30 in the said matter. The ratio is the said order will be applicable to the Petitioner herein. Similarly, in this case,

⁷ 1992 Supp(1) SCC 335

no specific *overt-act* is attributed to the Petitioner. Mere mentioning of the name of the Petitioner in the FIR and the charge-sheet would not suffice and in the absence of any cogent reasons, the Petitioner cannot be prosecuted for the alleged offences.

5. In view of the above, Writ Petition No.6449 of 2025 is allowed in terms of prayer clause (a) which reads as under:-

“a) Issue a writ in the nature of Certiorari and quash the criminal proceedings against the Applicant in Sessions Case No.272 of 2018 pending before Sessions Court, Dindoshi Mumbai arising out of FIR dated 17.12.2017 registered with Samta Nagar Police Station vide C.R. No.740 of 2017.”

[GAUTAM A. ANKHAD, J.]

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