



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1162 OF 2026**

Karunakar Vasu Shetty ... Applicant

Versus.

The State Of Maharashtra ... Respondent

Mr. Nikhilesh Pote A/W Tanmay Jadhav, for the Applicant.

Mrs. Anagha Deshmukh, APP for the Respondent – State.

PI Satish Chabukswar, Turbhe Police Station, is present.

CORAM : ASHWIN D. BHOBE, J.

DATE : 6th May, 2026.

P.C. :

1. Heard Mr. Nikhilesh Pote, learned Advocate for the Applicant and Mrs. Anagha Deshmukh, learned APP for the Respondent – State.

2. By the present Application, the Applicant seeks pre-arrest bail, apprehending arrest in Crime No. I-22 of 2026 registered with Turbhe Police Station, District – Thane, Navi Mumbai, dated 04.01.2026, for offences punishable under Sections 143(3) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, read with Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.



3. The case of the prosecution is that, acting on a tip from the Secret Informant on 03.01.2026 at about 18:37 hours, the Turbhe Police, Mumbai, raided “Hotel Raj Lodging and Boarding”, D/03, Turbhe Naka, Navi Mumbai. During the raid, the hotel was found to be used for prostitution. The Accused Nos. 1, 2 and 3 of the said FIR were found to have induced and forced victim girls into prostitution, and their earnings were used by the said Accused persons for their livelihood.

4. Mr. Nikhilesh Pote, learned Advocate for the Applicant, submits that the entire allegation against the Applicant is that the Applicant is a licensee of the said premises. He submits that, though the chargesheet is filed, there is no material, much less any evidence, to indicate that the Applicant had knowledge of the illegal acts committed at Hotel Raj Lodging and Boarding, nor any material to show the Applicant's involvement in the said crime. He submits that the Accused Nos. 1, 2 and 3 in the said crime, who were found at the Hotel during the raid, were arrested and have been released on Bail by the Court of the Additional Sessions Judge, Belapur, Thane, on 28.01.2026.



5. Ms. Anagha Deshmukh, learned APP for the Respondent – State, submits that Accused Nos. 1, 2 and 3, in their statements recorded under Section 161 of the Code of Criminal Procedure, 1973, by the Turbhe Police Station, have stated that it is the Applicant who runs the Hotel Raj Lodging and Boarding. She further submits that the Applicant’s custodial interrogation is required to ascertain whether any other premises are being used for prostitution.

6. Perused the impugned FIR and the chargesheet produced on record. The Applicant is sought to be implicated in the said crime on the basis of the Applicant’s License Agreement to conduct business at the premises “Hotel Raj Lodging and Boarding”. Neither the FIR nor the Chargesheet contains any allegation or material against the Applicant to show the Applicant being involved in the illegal act or the Applicant having knowledge of the premises being used for illegal act.

7. Ms. Anagha Deshmukh, learned APP for the Respondent – State, placed reliance on the statements of the co-accused recorded by the Turbhe Police Station, Navi Mumbai, under Section 161 of



the Code of Criminal Procedure, 1973, to contend that the statements are sufficient to indicate the involvement of the Applicant in the said crime.

8. The Hon'ble Supreme Court in the case of *P. Krishna Mohan Reddy v. State of A. P.*¹ wherein the Hon'ble Supreme Court has observed as under :-

53. From the above exposition of law, the following emerges:—

(i) A person who is accused of an offence or named in the first information report, can be examined by the police and his statement may be recorded under Section 161 of the Cr. P.C., as held in Nandini Satpathy (supra).

(ii) A statement of an accused under Section 161 of the Cr. P.C., would ordinarily be of two kinds, it may be inculpatory in nature or may be exculpatory in nature.

(iii) An inculpatory statement again may be in the form of an admission or a confession. If such statement admits either a gravely incriminating fact or substantially all the facts which constitute the offence, respectively, as held in Pakala Narayana Swami (supra), then it amounts to confession.

(iv) Where such police statement of an accused is confessional statement, the rigour of Section(s) 25 and 26 respectively will apply with all its vigour. A confessional statement of an accused will only be admissible if it is not hit by Section(s) 24 or 25 respectively and is in tune with the provisions of Section(s) 26, 28 and 29 of the Evidence Act

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respectively. In other words, a police statement of an accused which is in the form of a confession is per se inadmissible and no reliance whatsoever can be placed on such statements either at the stage of bail or during trial. Since such confessional statements are rendered inadmissible by virtue of Section 25 of the Evidence Act, the provision of Section 30 would be of no avail, and no reliance can be placed on such confessional statement of an accused to implicate another co-accused.

(v) A confessional statement of one accused implicating another co-accused may be taken into consideration by the court against such co-accused in terms of Section 30 of the Evidence Act, only at the stage of trial, where (1) the confession itself was relevant and admissible in terms of the Evidence Act; (2) was duly proved against the maker; (3) such confessional statement incriminates the maker along with the co-accused and; (4) both the accused persons in question are in a joint trial for the same offence.

*(vi) Furthermore, because such confessional statements are not “evidence” in terms of Section 3 of the Evidence Act as held in *Bhuboni Sahu (supra)*, such a confession as held in *Kashmira Singh (supra)* can only be pressed into consideration by the court as a rule of prudence, to lend assurance to the other evidence against such co-accused, provided that aforesaid ingredients or conditions of Section 30 read with Section(s) 24 to 29 of the Evidence Act, are fulfilled.*

(vii) Where the police statement of an accused is in the form of an admission, such inculpatory statement even if it implicates another co-accused cannot be taken into consideration against such co-accused in terms of Section(s) 17 read with 21 of the Evidence Act, as doing so would militate against the general principle, that an admission may be given as evidence against the maker alone. The exceptions to the aforesaid general principle carved out under the Evidence Act, do not permit the usage of such admission against a co-accused in any scenario whatsoever.



(viii) Where the police statement of the accused is an exculpatory statement i.e., it is neither a confession nor an admission, the statement being one under Section 161, would immediately attract the bar under Section 162 of the Cr. P.C., and the same may be used only for the very limited purpose provided in the Proviso for the purpose of contradiction or re-examination of such accused person alone, as held in Mahabir Mandal (supra). Even if such exculpatory statement of one accused, implicates another co-accused, the same cannot be taken into consideration against such co-accused, as there can be no credibility attached to an exculpatory statement of an accused implicating another co-accused, more particularly because it is neither required to be given on oath, nor in the presence of the co-accused, the same cannot be tested by cross-examination and the exculpatory nature of such statement militates against the foundational principle that permits taking into consideration a statement of one accused person against another co-accused as explained in Bhuboni Sahu (supra), i.e., 'when a person admits guilt to its fullest extent either to a certain incriminating fact or substantially all the facts which constitute the offence, and in doing so exposes himself and in the process other co-accused persons to the pain and penalties provided for the guilt, there exists a sincerity and semblance of sanction for the truthfulness of such statement'.

(ix) Although a handful of decisions of this Court such as Indresh Kumar (supra) and Salim Khan (supra) have held that statements under Section 161 of the Cr. P.C. ought to be looked into by the courts at the stage of anticipatory or regular bail for the purpose of ascertaining whether a prima-facie case has been made out against the accused and the nature and gravity of the allegations, yet the aforesaid rule only applies insofar as such statements under Section 161 were made by witnesses and not accused persons. A statement of an accused under Section 161 of the Cr. P.C. stands on a completely different footing from a police statement of a witness. As already discussed in the foregoing paragraphs, if the police statement of an accused is inculpatory in



nature, its more in the form of a confession or admission rather than a statement, and the relevant provisions of Section(s) 17 to 30 of the Evidence Act, will apply with all its vigour. Where such statement of the accused is exculpatory in nature, the same can be looked into by the courts only for the limited purpose of either culling out the stance of the accused person qua the allegations or for contradicting the accused, if the accused chooses to be examined as a witness in terms of Section 315 of the Cr. P.C.. However, such exculpatory statement insofar as it implicates another accused person cannot be looked into by the courts, as such statements by their nature cannot be tested by cross-examination if such accused person declines to be a witness in the trial in terms of Section 315 of the Cr. P.C., and because such exculpatory statement has no credibility as explained in Bhuboni Sahu (supra).

(x) Before the court looks into the police statement of any person under Section 161 of the Cr. P.C. for the purpose of anticipatory or regular bail, the court must first ascertain whether such person is actually a witness or an accused person, or likely to be an accused person in respect of the offence(s) alleged. This is because, there may be situations where a person while giving his statement under Section 161 of the Cr. P.C. may not be an accused, but later arrayed as one. In such a scenario the courts must be mindful of the fact that because the investigation is still ongoing, it is more likely for a person who was originally a witness to happen to be later arrayed as an accused person. If the court was to blindly place reliance on statement of such a person merely because he is not named in the first information report, without first seeing whether such person is likely to be arrayed as an accused or not, it would lead to an absurd situation where the statement of such a person may be relied upon up until such person is arrayed as an accused. We also caution the courts, where it emerges from the material on record, that such a person is likely to be arrayed as an accused, the courts should refrain from expressing any such opinion so that the investigation is not prejudiced in any manner.



9. Considering the lack of material shown by the Applicant in relation to the custodial interrogation of the Applicant, this is a fit case for the grant of Anticipatory Bail to the Applicant.

10. In view of the above, this Application is allowed on the following terms :

(a) In the event of arrest of the Applicant in Crime No. I-22 of 2026, registered with Turbhe Police Station, District – Thane, the Applicant shall be released on bail on furnishing PR bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) with one or two local sureties in the like amount.

(b) Applicant shall report to the Investigation Officer, Turbhe Police Station, District – Thane, on 2nd and 4th Monday of each month between 10:00 am to 12:00 pm., commencing from 18.05.2026. In the event the Applicant is required by the



Investigating Officer, Turbhe Police Station, District

– Thane, on any other day, the Applicant shall ensure his presence before the Investigating Officer.

(c) Applicant shall not directly or indirectly make any inducement, threat or promise to any person/s acquainted with the facts of the case to dissuade such person/s from disclosing the facts to the Court or any police officer.

(d) Applicant shall not tamper with evidence in any manner.

(e) Applicant shall provide the Investigation Officer with his residential address along with proof, his contact number, email and must inform the Investigating Officer of any changes to this information from time to time.

(f) Applicant shall cooperate with the



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Investigating Officer in the process of investigation
of the present Crime.

11. Anticipatory Bail Application No. 1162 of 2026 is disposed
of.

(ASHWIN D. BHOBE, J.)

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