

Anand

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

ANTICIPATORY BAIL APPLICATION NO.929 OF 2017

Kapil Abhay Mutha

.Applicant

Vs.

The State of Maharashtra

.Respondent

Ms Falguni Brahmabhatt, Advocate, for the Applicant

Mr.Prashant Jadhav, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 15.06.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C.R.No.89 of 2017 registered with the Koregaon Park Police Station, Pune, for the alleged offence punishable under Sections 78 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

3. On 29th April, 2017, the Social Security Cell of the Crime Branch received information, that illegal acts were going on in the premises of hotel 'Gossip' and that a hukka parlour was being run in the said hotel. Pursuant to the said information, the

Koregaon Park Police raided the said premises, at about 10.00 p.m. and found 32 customers sitting on the roof top of the hotel. It is alleged that the owner and the manager were providing beer and hukka to the customers. In the raid, three minors were found to have been employed, as waiters in the said restaurant.

4. Learned counsel for the Applicant submitted that the owner of the restaurant had rented out the said premises to a company. She submitted that the Applicant was in no way concerned with the said company, who was running the said restaurant. According to her, the Applicant was neither the partner nor the director of the said company and as such, cannot be held liable for the activities in the said restaurant. She relied on page 23 of the Application to show that the Applicant is not the director of the company. She further submitted that out of the three children, allegedly employed, one was aged 20 years.

5. Learned APP has produced the statements and documents, collected during the investigation.

6. Perused the papers. It appears that a Memorandum of Understanding (MOU) was executed on 22.02.2017, between

Gadgil Hotel Pvt. Ltd. and Golden Pearl Business Solutions Pvt. Ltd. The said MOU shows, that the Applicant is one of the directors of the said Golden Pearl Business Solutions Pvt. Ltd.. It appears from the documents on record, that the original owner of the premises is one Mr.Pingale, who had licensed his premises to Gadgil Hotel Pvt. Ltd., who in turn, had entered into an MOU with Golden Pearl Business Solutions Pvt. Ltd. Although, learned counsel for the Applicant vehemently submitted that the Applicant is neither a Director nor a Partner of the company, prima facie, the MOU shows that the Applicant is a director of Golden Pearl Business Solutions Pvt. Ltd. and that he has signed the said MOU, on 22.02.2017. The said document is a notarized document. Whether or not, the Applicant is a Director or not, is a matter which will be decided by the trial Court. Also perused the statements of the minor children aged 15 & 17 employed by the company. A perusal of the statements of the said minor boys and their parents show, that they were engaged for house keeping. The statement of Raj shows that he is a student and as he had holidays, he had joined the said hotel and was doing housekeeping work. It is informed that both the minor children aged 15 & 17 years are presently with their parents.

7. In the facts of the present case, custodial interrogation of the Applicant is not required. Accordingly, the Application is allowed and the Applicant is granted pre-arrest bail on the following terms & conditions:-

O R D E R

- (i) In the event of arrest, the Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.15,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall attend the concerned police station **as & when called for** by the investigating officer;
- (iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant to cooperate with the conduct of the trial.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)