

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1046 OF 2020

Prashant Sambhaji Gondhali .. Applicant
V/s.

The State of Maharashtra ..Respondent

Mr. Kunal Patil a/w Prashant Raul for the Applicant.

Mr. Y.M. Nakhwa, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 21st DECEMBER, 2020

P.C.

1. The applicant apprehending arrest in Crime No. 542 of 2020 registered with Shahupuri Police Station, District-Kolhapur, under Section 406, 418, 420 of IPC, is seeking anticipatory bail.

2. I have heard the learned counsel for the applicant and the learned APP. Perused record.

3. The aforesaid offence is registered on the basis of the complaint dated 21.03.2020 lodged by Arun Umap. According to the complainant, somewhere in August-September, 2018, he got

acquainted with the present applicant at Kolhapur. The applicant had persuaded and induced the complainant to invest in Madrem Village Resort/North Goa Lifeline Spa run by the applicant at Goa. Accordingly, the complainant had invested an amount of Rs.3,51,000/- by cheque on 05.10.2018. The parties reduced the terms in the form of an agreement dated 16.10.2018, which is a notarised document.

4. The gravamen of the complaint is that till March 2019, the applicant did not pay or share any profits of the business to the complainant, stating that the business has run into losses. It was also contended that there was one more partner, namely Dattu Mane in the business, which was not disclosed. According to the complainant, the applicant represented that apart from, two of them one Avishkar Raje from Mumbai are the partners.

5. On the basis of such complaint, the offence came to be registered which is under investigation.

6. I have heard the learned counsel for the applicant and the learned APP. Perused record.

7. Prima facie it appears that the agreement dated 16.10.2018, recites that the parties had agreed to share the profits and losses equally. Clause 15 contains an arbitration clause in the event of there being any dispute. It is in this context that, it was submitted by the learned counsel for the applicant that the dispute is essentially of a civil nature.

8. That apart although in March 2019, the complainant realised that the profits of the business were not shared, the complaint is lodged only on 21.03.2020 i.e. after a period of one year.

9. Having regard to the over all circumstances, the following order is passed.

ORDER

i) In the event of his arrest, in connection with the investigation of Crime No. 542 of 2020 registered with Shahupuri Police Station at Kolhapur, the applicant shall be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The applicant shall attend the Investigating Officer on 28.12.2020, 29.12.2020 and 30.12.2020 between 11.00 a.m. to 1.00 p.m. and as and when required by the Investigating Officer.

iii) The applicant shall co-operate with the Investigating Agency and shall not tamper with the prosecution evidence/witnesses.

iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

v) The criminal application is disposed of accordingly.

C.V. BHADANG, J.