

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

**ANTICIPATORY BAIL APPLICATION NO.1246 OF 2022
WITH
INTERIM APPLICATION NO.1582 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.1246 OF 2022**

Kishore Kumar Shriniwas Shetty & Anr. ... Applicants
Vs.
State of Maharashtra ... Respondent

Mr. Satyavrat Joshi i/b. Mr. Nitesh J. Mohite for Applicant.
Ms. Sharmila S. Kaushik, APP for Respondent-State.
Mr. Satyam H. Nimbalkar a/w. Mr. Abhishek Arote for Intervenor
Mr. V. D. Jadhav, Bundgarden Police Station, Pune.

CORAM : NITIN W. SAMBRE, J.

DATED : 28th September, 2022

P.C.:

1. Heard.
2. The complainant entered into a limited liability partnership agreement under the name and style as M/s. Patbros Engineering Services LLP. The son of the applicant was one of the partners with 33% of holdings.
3. The said firm was in the business of hospitality. The firm accordingly opened and operated a restaurant and bar, which has suffered financial losses.
4. The alleged mismanagement resulting in registration of

crime no. 411 of 2020 registered with Bandgarden Police Station for the offence punishable under sections 406, 420 of IPC.

5. The submissions of the counsel for the applicant Mr. Joshi are, the applicant is not party to the LLP agreement. The son of the applicant who is a party has already arrested and released on regular bail. He would further urge that the applicant's custodial interrogation in the aforesaid matter is not justified particularly when the applicant has no business relations with the complainant in the matter and all that he has done is extended his experience and knowledge for the better administration and managing the business in the question.

6. Learned APP would urge that the offence is based on a forensic audit wherein the amount in the business is not only embezzled by the son of the applicant but the applicant is also a beneficiary.

7. The counsel for the complainant would urge that the forensic audit report categorically speaks of diversion of the amount from the firm's daily earnings to which the applicant is one of the party.

8. According to him, the applicant not only has carried out purchases on behalf of the firm but has also taken loans from various persons.

9. In the aforesaid background, it is claimed that the custodial interrogation of the applicant is required.

10. I have appreciated the said submissions.

11. Based on the clause of arbitration, *inter se* between the partners, I am informed that an arbitration proceeding is already on going.

12. As far as the role attributed to the applicant is concerned, the fact remains that the applicant is not a partner to the partnership agreement. His son, who was the partner, was already arrested and released on regular bail. As such, the commercial / financial liability, if any, against the applicant or his son will definitely be looked into.

13. In the aforesaid background, having regard to the partnership agreement, the nature of business carried out, it cannot be said that the custodial interrogation of the applicant in the matter as claimed is justified. Rather the arbitration proceedings will take care of all the monetary liabilities against the co-accused.

14. That being so, a case for confirmation of ad-interim protection is made out.

15. In the event of arrest of applicants in crime no. 411 of 2020

registered with Bandgarden Police Station for the offence punishable under sections 406, 420 of IPC, applicant be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

16. The applicant shall attend the Investigating Officer from 10/10/2022 to 14/10/2022 between 10.00 a.m. to 12.00 noon and thereafter as and when directed.

17. The applicant shall neither tamper with evidence nor influence the witnesses in any way.

18. The anticipatory bail application stands disposed of. In view of the disposal of anticipatory bail application, the interim application also disposed of.

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(NITIN W. SAMBRE, J.)