

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2329 OF 2022

Gurdeep Singh Matharoo] .. Applicant

vs.

State of Maharashtra & Anr.] .. Respondents

ALONGWITH

ANTICIPATORY BAIL APPLICATION NO.2331 OF 2022

Dalip Singh Matharoo] .. Applicant

vs.

State of Maharashtra & Anr.] .. Respondents

Mr.Sudeep Pasbola a/w Ayush Pasbola i/b Bipin Joshi for the Applicant in ABA No.2329/2022.

Senior Advocate Mr.Manoj Mohite i/b Bipin Joshi for the Applicant in ABA no.2331/2022.

Mr.G.L. Bajaj a/w Raunak Bajaj and Ali Khan for Intervenor.

Mr.S.V. Gavand, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 4th OCTOBER, 2022.

P.C.

1] The learned counsel for the Applicants in both Applications have placed on record an Affidavit-cum-Undertaking, wherein it is agreed that, within one month from today, the partnership firm shall pay to the complainant, 8% of the net profit, of the firm as declared in Para 11 of the Partnership Deed dated 01.04.2000, to which the deceased husband of the complainant was a party.

It is also agreed that, in the event of disposal of the assets of the partnership firm or any part thereof, all legal heirs of Bhupinder Singh shall be entitled for share of 8% as heirs and legal representatives of late Bhupinder Singh as mentioned in Undertaking.

2] Mr.Pasbola, the learned counsel for the Applicant, during the course of arguments, had made it amply clear that though as per clause 17 of the Partnership deed, on the death of deceased partner, his heirs or legal representative would automatically become partner alongwith the surviving partner, which would include mother of the deceased, but the Applicants have agreed to restrict 8% share in the net profit of the firm to the complainant and her minor son.

An Affidavit, placed on record, signed by both the sides is taken on record and marked as **X**- for identification.

3] Though the Applicants are facing accusations under Section 468 and 420 of the Indian Penal Code, it is noted that the complainant has already lodged a suit for partition, declaration, injunction and accounts and other consequential reliefs in the year 2022, alongwith the minor son, whom she represent as natural guardian.

The aforesaid arrangement which the Applicants have offered to the complainant and her son will not preclude them from persuading the allegations of cheating and seeking the reliefs, that are sought in the Suit for partition.

4] As far as future payment is concerned, after clearing the arrears, the Applicants undertake that they shall be making payment of other dues on regular basis, and on quarterly basis. In case of any failure to abide by the Undertaking given by the Applicants, the complainant as

well as prosecution would be at liberty to move an application for cancellation of bail.

5] In the wake of above Affidavit filed by the Applicants, undertaking to permit sharing of 8% share of the net profits of the partnership firm from the date of death of her husband, though the contentious issue whether the Deed of Retirement is forged or genuine, being left for adjudication by the Civil Court and the ancillary benefits flowing to the complainant as a partner in the said firm, in my considered opinion, custodial interrogation of the Applicants is not necessary.

6] Both the Applicants have undertaken that they will abide to the terms of the Affidavit, without prejudice to their rights and contentions and subject to the orders in the civil suit, passed from time to time.

In the wake of above, following order is passed :

ORDER

(a) Applications are allowed.

(b) In the event of arrest in connection with C.R.No.370/2022 registered with Vakola Police Station, the applicants Gurdeep Singh Matharoo and Dalip Singh Matharoo shall be released on bail on furnishing P.R. bond to the extent of Rs.50,000/- each with one or more sureties of the like amount.

(c) The applicants shall report to the concerned police station as and when called for.

(d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

[BHARATI DANGRE, J]

This order stands corrected as per Speaking to Minutes order dated 17.10.2022.