

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1194 OF 2023

Balasaheb Baburao Pachpute Applicant

Versus

The State of Maharashtra Respondent

Mr. R. P. Bhumkar, Advocate for the applicant.
Mr. S. P. Sonpawale, APP for the State.

ANTICIPATORY BAIL APPLICATION NO.672 OF 2023

Samir Kamruddin Shaikh Applicant

Versus

The State of Maharashtra Respondent

Mr. Shaikh Mazhar A. Jahagirdar, Advocate for the applicant.
Mr. S. P. Sonpawale, APP for the State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 724 OF 2023

Satish @ Aaba Madhukar Kanherkar Applicant

Versus

The State of Maharashtra & another Respondents

Mr. N. S. Ghanekar, Advocate for the applicant.
Mr. S. P. Sonpawale, APP for the State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 725 OF 2023

Shubham Navnath Bodkhe Applicant

Versus

The State of Maharashtra & another Respondents

Mr. N. S. Ghanekar, Advocate for the applicant.
Mr. S. P. Sonpawale, APP for the State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 904 OF 2023

Ajit Sampat Wagaskar Applicant

Versus

The State of Maharashtra & another Respondents

Mr. N. S. Ghanekar, Advocate for the applicant.
Mr. S. P. Sonpawale, APP for the State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 764 OF 2023

Mahesh s/o Shrikant Makhare Applicant

Versus

The State of Maharashtra & another Respondents

Mr. N. S. Ghanekar, Advocate for the applicant.
Mr. S. P. Sonpawale, APP for the State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 793 OF 2023

Shakir s/o Kamaruddin Shaikh Applicant

Versus

The State of Maharashtra	Respondents
Mr. Ataur Raheman A L Ambari, Advocate for the applicant.	
Mr. S. P. Sonpawale, APP for the State.	

WITH
ANTICIPATORY BAIL APPLICATION NO. 765 OF 2023

Deepak Maruti Karanjule & another	Applicants
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Versus

The State of Maharashtra & another	Respondents
Mr. N. S. Ghanekar, Advocate for the applicants.	
Mr. S. P. Sonpawale, APP for the State.	

WITH
ANTICIPATORY BAIL APPLICATION NO. 675 OF 2023

Savita w/o Vaibhav Hande	Applicant
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Versus

The State of Maharashtra	Respondent
Mr. N. S. Ghanekar, Advocate for the applicant.	
Mr. S. P. Sonpawale, APP for the State.	

WITH
ANTICIPATORY BAIL APPLICATION NO. 750 OF 2023

Deepak Bapu Wagaskar	Applicant
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Versus

The State of Maharashtra	Respondent
Mr. A. D. Shinde, Advocate for the applicant.	
Mr. S. P. Sonpawale, APP for the State.	

CORAM : R. M. JOSHI, J.
RESERVED ON : 4th SEPTEMBER, 2023.
PRONOUNCED ON : 7th SEPTEMBER, 2023.

ORDER :

1. Human life begins with milk. From infants to old aged persons, every one survives on milk and it is also advised by the doctors for good health. Invariably, infants from the age of 3 to 6 months, start consumption of cow/buffalo milk. Adulteration of milk poses danger to the well being of human being. A question therefore arises before this Court as to whether anticipatory bail can be granted where there is prima facie material on record to indicate involvement of the accused in the crime.

2. On 17th March, 2023, First Information Report bearing no. 303/2023 came to be lodged with Shrigonda Police Station, Tq. Shrigonda, District Ahmednagar for the offences punishable under Sections 272, 273, 328, 420 of Indian Penal Code and Sections 26, 26(2)(i) and 59 of Food Safety and Standards Act.

3. On 16th March, 2023, the Food & Safety Officer, received secret information about adulteration of milk being done by one of the applicants Balasaheb Pachpute. Pursuant to the said information, raid was conducted on his house. Amongst three houses, in one house, 25 kg of Whey Permeate Powder (for short “WPP”) and 40 liters of Light Liquid Paraffin (for short “LLP”) was found. In the pickup van parked outside the house, 40 liters capacity of 50 plastic drums containing WPP and LPP were found. In another vehicle, 15 drums each with 40 liters capacity carrying milk were seen. The officer drew sample of milk and adulterous material. The contaminated milk was destructed at the spot. On the basis of this, offence came to be registered. During the course of investigation, some of the accused persons were arrested. Mainly on the basis of the statement made by accused No. 2, involvement of present applicants was revealed to the Investigating Agency.

4. Learned counsel for applicants submitted that the charge-sheet in respect of the said crime is already filed and that custodial interrogation of the applicants is not necessary. It is their further contention that except for the alleged statement of the co-accused, there is absolutely no evidence to connect the applicants

with the crime in question and hence, they are entitled for pre-arrest bail. In Anticipatory Bail Application No. 675/2023, it is specifically contended that the applicant is a licence holder of Food and Drugs Administration to sell and purchase WPP. It is submitted that she is a woman and has responsibility of the family and hence she is entitled for bail. In Anticipatory Bail Application No. 725/2023, it is contended that the applicant is the owner of Radhai Agro Hub and is involved in the business of selling milk machine, insecticides, fertilizers etc. It is claimed that the articles available in the shop have nothing to do with adulteration of milk and since there are financial transactions between him and the co-accused, he is being arrayed as accused in this crime. It is also contended that the father of this applicant, who has provided capital for the business, is a Principal in the school and he is on the verge of retirement. In Anticipatory Bail Application No. 724/2023, it is contended that the applicant is the owner of milk chilling plant and is not involved in milk adulteration. It is claimed that the Investigating Officer could not find any incriminating evidence against him. In Anticipatory Bail Application No. 764/2023, it is claimed that out of the dispute with accused No. 2, applicant is purposefully named in the crime. He further claims that there is no connection between them. Applicants

in Anticipatory Bail Application No. 765/2023 claim that they are milkmen and their alleged connection in the crime on the basis of statement of accused No. 11 is not admissible in evidence. In Anticipatory Bail Application No. 904/2023, it is contended that the applicant is having milk dairy at village Surodi and he used to collect milk from farmers and send it to company for further process. Same argument is advanced that in absence of any other evidence except for the alleged statement of co-accused, there is nothing on record to link him in the crime in question.

5. Learned APP opposed the said submissions by contending that the offence is serious in nature which has adverse effect on the health of public at large. According to him, consumption of milk is daily routine of all and the adulterated milk makes people sick and it is hazardous to their health. By referring to the investigation papers, it is submitted that seizure of WPP and LPP from the residence of applicant Balasaheb and interse connection between him and co-accused clearly indicate that it is a systematic business activity carried out for earning undue profits. By relying upon the material collected during the course of investigation, it is submitted that here is not a case wherein there is only evidence of

statement of the co-accused unsupported by any other evidence. According to him, the Investigating Agency was able to connect the accused with each other not only on the basis of the statement but also on the basis of financial transactions between them. It is his contention that at this stage this evidence is sufficient to hold their involvement in crime. He further states that the charge-sheet has been filed but the same is filed against the accused who are already arrested in view of the mandate of law requiring filing of charge-sheet within stipulated period. Thus, it is his submission that the present applications deserve to be rejected.

6. Needless to say that the offence in question is serious in nature as it is a direct threat to the people from infants to old aged persons. Adulterous article like WPP has side effects like nausea, bloating, increase in bowel movement etc. So also, LPP causes diarrhea, abdominal pain and discomfort. Continuous consumption of these articles will certainly make a person sick requiring him to undergo medical treatment. Adulteration of these articles in the milk for the purpose of gaining undue profits cannot be taken lightly.

7. As far as present case is concerned, the First Information Report coupled with the seizure memorandum drawn by the Food & Safety Officer on 16th June, 2023, clearly indicate that in the house of one of the applicants, WPP and LLP were found. The quantity of these articles clearly shows that the same was not for his own use but was also for distribution thereof. This gets support from the involvement of number of persons in the said crime.

8. It is pertinent to note that on the basis of the statement of the arrested accused, involvement of present applicants in the crime is revealed. Though there is substance in the contention of the counsels for applicants that statement of co-accused made before police is not admissible in evidence, however, here in this case, there is not only statement of co-accused but further tangible corroborating evidence to connect the accused with each other and ultimately to the crime in question. There are financial transactions between them which are prima facie sufficient to indicate that it could be a syndicate of business of for adulteration of milk. It may not be out of context to mention that if there was no arrest of any accused in this crime, it was impossible that names of other accused connected with crime would have ever revealed. Hence, it is within

the right of the Investigating Agency, in order to unveil the entire crime and to find out involvement of any other person therein, also to ascertain trail of money as well as transactions, to seek custodial interrogation of the applicants. Most importantly, there is absolutely no reason to hold that this could be case of false implication.

9. Having regard to the aforesaid facts and as prima facie there is sufficient evidence to show involvement of the applicants in the serious crime like adulteration of milk, they cannot be enlarged on anticipatory bail. In the peculiar facts of the case, mere filing of charge-sheet against co-accused would not preclude the Investigating Agency from seeking custodial interrogation of the applicants. Hence, no case is made out for grant of anticipatory bail. Resultantly, applications stand dismissed.

(R. M. JOSHI)
Judge

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LATER ON :

1. After pronouncement of the order rejecting the applications filed by the applicants, learned counsel for the

applicants seek extension of protection for approaching the Hon'ble Apex Court to challenge this order.

2. Learned APP opposed the request.

3. In view of the fact that interim protection was granted to the applicants, the same is extended for a period of two weeks to enable the applicants to challenge this order before the Hon'ble Apex Court.

(R. M. JOSHI)
Judge

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