

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 394 OF 2015

Yogesh Pralhad Kalbhor	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Ms. Jaymala Ostwal i/b. M/s. J.J. Associates, Advocate for the applicant.
Mr. Arfan Sait, APP for the State.
I.O. Mr. Y.S. Pathan P.C. 823, Hadapsar Police Station, Pune present.

CORAM : MRS. MRIDULA BHATKAR, J.
DATE : 23rd March, 2015.

P.C.

This Application is moved for anticipatory bail, as the applicant/accused is facing charges under section 179, 188, 273, 328 of the Indian Penal Code and under section 26, (2)(i) r/w. Section 3(1)(zz)(v) punishable under sections 59 and 26(2)(iv), under section 27(3)(D)(E) punishable under section 59 of Foods Safety and Standards Act, 2006 registered at C.R. No. 37/2015 with Hadapsar Police Station.

2. It is the case of the prosecution that the offence is registered at the instance of Avinash Dabhade, Food Inspector, as they have received an information that the prohibited foods and drugs, i.e. Pan masala and scented tobacco were transported in one Scorpio vehicle. Pursuant to the said information, when the vehicle was stopped, they found that the

information was correct. On further investigation of the same offence, they found that such prohibited items were stored in the godown in large quantities. They seized all the tobacco and pan masala packets valuing Rs.2,85,969/-. Hence, the offence was registered against the applicant/accused, as he is the owner of the Scorpio car and godown.

3. The learned counsel for the applicant/accused submitted that the applicant/accused is neither the owner of the car nor the owner of the godown. She submitted that the applicant/accused was earlier arrested for the similar type of offence and again the police, out of vengeance, has arrested him. The applicant is innocent.

4. The learned APP opposed the Application and submitted that earlier the applicant has committed the similar type of offence and he is repeating it, therefore, he is arrested.

5. On perusal of the FIR and other documents, it is found that section 328 is the only non-bailable section, so this Application for pre-arrest bail can be entertained. Considering the nature of the offence. I apprehend whether section 328 can be attracted or not. There is an evidence that the applicant/accused has *prima facie* committed offence. However, in view of the legal position, I am inclined to grant pre-arrest bail to the

applicant/accused on the following terms and conditions:

ORDER

- (i) The Application is allowed.
- (ii) In the event of arrest, the applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.20,000/- with one or two sureties in the like amount.
- (iii) The applicant/accused shall not tamper with the evidence or pressurize the complainant.
- (iv) The applicant/accused shall attend the concerned police station on every Tuesday between 5 p.m. to 6 p.m. till 30th April, 2015 or till the filing of the charge sheet, whichever is earlier.
- (v) The applicant/accused shall not commit any such offence especially the offence of the similar nature.

6. The Application stands disposed of accordingly.

(MRS. MRIDULA BHATKAR, J.)