

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.507 OF 2015

Mr.Ahmed Raza Siddiqui

...Applicant

V/s.

The State of Maharashtra

...Respondents.

Mr. Anand Pande i/b Kaushik M. Mhatre for the Applicant.

Mrs. Rutuja Ambekar APP for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATED : 27th AUGUST, 2015.

P.C.

1. Heard learned counsel for the applicant and the learned APP for the State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. I-23/15 registered with the Manor Police Station for the alleged offences punishable under sections 26(1) (2), (IV), 27 (1)(2)(3), 30 (2)(a) of the Food Safety and Standard Act, 2006 and under sections 328, 272 and 188 of the IPC.

3. The learned counsel for the applicant states that except Section 328 of the IPC, all the alleged offences are bailable. He submits that as far as section 328 of the IPC is concerned, there is nothing to

show that the same is applicable to the facts of the present case.

4. The learned APP has filed an affidavit of Shri Maruti Irappa Patil, Asst. Police Inspector. According to the prosecution, the complainant Dinesh Girju Gosavi, Police Naik attached to Manor Police Station, received information that one tempo No.MH-04-EB-271 was transporting scented pan masala from Gujarat into Maharashtra. On the basis of the said information, the complainant alongwith a police constable kept a watch on the said vehicle. It is alleged that on seeing the vehicle, they signaled the vehicle to stop, however, the driver did not stop the vehicle. Hence, the police constable chased the vehicle on a motorcycle and on reaching Sati Mata Hotel, he saw the vehicle parked near the hotel, but he could not find the driver. On searching the vehicle, scented Bhola Chap Tobacco and Rajanigandha Pan Masala were found and accordingly a panchanama was prepared.

5. The learned APP states that though the name, address and cell phone number of the driver given by the present applicant is correct, the driver is absconding. It appears that the Investigating officer has recorded the statement of the Manager of Golden Roadline and Apollo Transport Company, which company is owned by the

present applicant.

6. The learned Counsel for the applicant states that the applicant runs the business of transport but was totally unaware that on the pretext of transporting goods, the articles which are banned were transported. He further states that the consignment was seized from the vehicle itself.

7. Be that as it may, the fact remains that banned articles have been seized from the vehicle, at the spot. The applicant was not present at the spot. The question whether the applicant had knowledge that banned articles were being transported or not, is a matter which will be considered by the Trial Court, after evidence is adduced in the said case. Merely because the driver is absconding, does not mean that the applicant's application ought to be kept pending. The applicant has furnished the address of the driver to the Investigating Officer, but it appears he is untraceable. Considering the peculiar facts, the applicant is granted anticipatory bail on the following terms and conditions:

ORDER

(i) In the event of arrest, the applicant shall be enlarged on bail on furnishing P. R. Bond in the sum of

Rs.50,000/- with one or two sureties in the like amount.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)