

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 602 of 2015

Sampat Namdev Ghorpade	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Jaywant J. Bardeskar, Advocate for the applicant.
Mr. Arfan Sait, APP for the State.
I.O. Mr. M.N. Patil, P.I., Wadivarhe Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **28th April, 2015**

P.C.:

This Application is moved for pre-arrest bail under section 438 of Cr. P.C. The applicant is accused no. 4 out of 10 accused. In this case, accused no. 1 Jahir Ahmed Sagir Khan is a complainant. He was a driver on the truck. On 9th March, 2015 he was carrying 280 gunny bags, each consisting of 50 kgs of rice valuing Rs.2,80,000/- from Jai Anand Transport, Bhiwandi and was proceeding towards Sinnar. When he reached near Sinnar, according to his information given to the police on 10th March, 2015, three persons arrived and they assaulted him and looted all the gunny bags of rice. His hands and eyes were tied and after sometimes they released him. He found that not a single gunny bags of rice was in the truck. On his information given to the police at Wadivarhe Police Station, an offence was registered at C.R. No. I-22/2015 under section 392 r/w. 34 of the Indian Penal Code. The police initiated their

investigation and within a couple of days, they found that complainant Jahir Ahmed has misdirected the police by giving a false information, as he himself was involved in this robbery. The police further investigated and found that these gunny bags of rice were purchased by the Government for distributing the same to poor people and students of Anganwadi. There was a plan wherein the truck driver/complainant himself along with the owner of the truck and the Government officers like supply inspector and other 10 persons were involved in this robbery. They also noticed that forgery was committed in the Government register which was supposed to be maintained in respect of storage and transport of rice, which was kept in the Government godown. Thereafter, police added further charges under sections 465, 468, 471, 120B r/w. 34 of the Indian Penal Code and also under sections 3 and 7 of the Essential Commodities Act against all the accused persons.

2. The learned counsel for the applicant/accused has submitted that the name of the applicant/accused is not transpired in the FIR. The applicant/accused is not concerned with the offence. He is not in the picture. He submitted that police are relying on the statement of the co-accused which are not admissible and hence, he prays for pre-arrest bail.

3. Learned APP relied on the complaint so also on the affidavit filed by

Mr. Manohar Narsappa Patil, Police Inspector of Wadivarhe Police Station, Nashik on 28th April, 2015. Learned APP pointed out that the police have clues that the applicant/accused is very much involved in this case. He might be behind this machination. There are 7 antecedents to his credit, some of them are of similar nature. He further submitted that there were two trucks of gunny bags of rice and police found that there is robbery of 560 gunny bags of rice and they have yet to recover 26 gunny bags of rice, therefore, the custody of applicant/accused is required.

4. Perused the FIR and the order passed by the Additional Sessions Judge, Nashik dated 18th April, 2015 so also the affidavit of Mr. Manohar Patil. It appears from this record that the police are in the midst of their investigation. It is the case of robbery. The manner in which the offence has taken place, police require custody of the main accused. In the FIR, the complainant, who is accused no. 1, has mentioned that this applicant/accused had accompanied him to the police station. The owner of the truck is also an accused. These all accused are absconding. Hence, it is not a fit case to grant pre-arrest bail. Hence, the Application for anticipatory bail is rejected.

(MRS.MRIDULA BHATKAR, J.)