

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 754 OF 2015

Subhash Kalujirao Gajare

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Nitin Dalvi for Applicant

Ms. S. S. Kaushik APP for the State.

Ms. Nandini B. Bansode, P.S.I. Ghatkopar Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 2nd JULY 2015

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 180 of 2015 registered at Ghatkopar Police Station for offence punishable under sections 3 & 7 of Essential Commodities Act.

2) It is the case of prosecution that applicant is a licence holder for a Fair Price Shop and is running his shop at Garibi Hatao Nagar, Ghatkopar. It is alleged that Flying Squad had taken inspection of the shop and the stock of the applicant's shop and it was found that the stock retained in the shop did not match with distribution of food grain to the ration card holders and it appeared that food grains were not distributed in favour of 81 customers.

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There was a short fall of Rs. 23,346/-.

3) Investigating Officer is present in the Court. Learned APP, upon instructions submits that beneficiaries of the scheme hail from lower strata of the class. They are unable to even state the quantum of food grains to which they are entitled. According to learned APP, applicant herein has taken advantage of illiteracy and economic stringency of the ration card holders and has deprived them food supply. It is also alleged that applicant has flouted the requisitions of section 3 of licence and hence, they would be punishable under section 7 of Essential Commodities Act.

4) Learned counsel for the applicant submits that there has been miscalculation and that records maintained by him would match with distribution of food grains amongst ration card holders. Learned counsel submits that applicant is being prosecuted under section 406 of Indian Penal Code. The case is triable by Court of Magistrate. Custodial interrogation would be unwarranted and unjustified. Hence, learned counsel prays for pre-arrest bail.

5) Taking into consideration the facts of the case and submissions advanced across the bar, it can be said that applicant has made out prima facie

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case for grant of pre-arrest bail. It is made clear that Observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 50,000/- with one or two solvent sureties in the like amount.
- (iii) Applicant shall report to concerned police station on 08/07/2015 to 10/07/2015 between 10.00 a.m. to 12.00 noon and shall submit requisite records to the Investigating Officer as asked for.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)