

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 872 OF 2015

Ghanshyam Bajabhau Kadam. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Santosh G. Shirsat, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

Mr. D.P. Patil, PSI, Navghar Police Station, Mulund.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 5, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicant herein is apprehending his arrest in
Crime No. 84 of 2015 registered at Navghar Police Station,
Mulund(E) for offence punishable under Section 3 read with 7, 8, 9 and
10 of the Essential Commodities Act, 1955 and under Section 2,4,8,9

and 10 of the Liquidity Petroleum Gas (Regulation of Supply and Distribution) Order.

3 The applicant herein was granted interim relief by the order dated 1st July, 2015. The applicant was directed to attend the police station. The learned APP does not dispute that the applicant has cooperated with the investigating agency. The offences alleged against the applicant are under the provisions of the Essential Commodities Act. The prosecution would have to substantiate that the applicant has not complied with any of the conditions of licence under Section 3 of the Essential Commodities Act and only then, he would be held liable for the penalties contemplated under Section 7 of the Essential Commodities Act. Punishment contemplated under section 7 of the Essential Commodities Act is imprisonment for a term which may extend to one year for non-compliance of the conditions contemplated under Section 3 of Essential Commodities Act and in the case of the Liquidity of Petroleum Gas (Regulation of Supply & Distribution) Order, imprisonment for a term, which shall not be less than 3 months but which may extend to 7 years and liable to fine.

4 Taking into consideration the fact that the applicant has joined investigation, as directed by this Court, custodial interrogation would not be imperative. In view of this, order dated 1st July, 2015 deserves to be confirmed.

5 It is made clear that the observations made hereinabove are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or for quashing of FIR or at the time trial. The learned Trial Court shall decide the matter uninfluenced by the above said observations and arrive at a conclusion only on the basis of the substantive evidence adduced by the prosecution at the time of trial.

6 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.

(iii) The applicant shall report to the investigating officer as and when called and cooperate with the investigating agency to the best of his capacity.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)