

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 988 OF 2014

Shri Amit Amarshi Gala	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 989 OF 2014

Smt. Kirtida Amit Gala	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. P.A. Pol a/w Sharad Suryawanshi i/b. Pol Legal Juris for the applicant.
Ms. Rutuja Ambekar, APP, for the State.
Mr. Prataprao T. Kadam, API, APMC Police Station, Navi Mumbai present.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 6th July, 2015.

P.C.

Heard. This are the applications under Section 438 of Cr.P.C.
The applicants herein are apprehending their arrerst in Crime No.27 of 2014 registered at APMC Police Station, Navi Mumbai for the offence punishable under Section 420 of IPC red with Sections 3, 7, 8 and 10 of the Essential Commodities Act, 1955 as well as Section 3, 11(1)(2), 13 and 15 of the Maharashtra Scheduled Commodities Wholesale Dealers' (Licensing) Order, 1998 and clause Nos. 3 to 10, 12 and 13 of the Conditions of

License.

2. It is the case of the prosecution that on 11.6.2014, the Rationing Officers had found that some tins were being unloaded from a Tempo near the premises of Golden Agro Traders Pvt.Ltd. The Rationing Officers had enquired into it. The Manager had shown the licence to the Rationing Officers. However, upon enquiry, it was learnt that the applicant herein has committed the offence. The Authorities had confiscated the goods. The learned counsel submits that the order of confiscation is under challenge. The applicants have filed Criminal Writ Petition No.3487 of 2014 which is pending adjudication before the Hon'ble Division Bench of this Court.

3. Perused the order dated 17.6.2015 passed by the Hon'ble Division Bench (Coram: Ranjit More & Smt. Anuja Prabhudessai,JJ.), wherein the Hon'ble Division Bench observed that Criminal Writ Petition No.3435 of 2013, which is touching the same subject matter, was filed before this Court by the firm of the present applicants i.e. Shyam Traders. The said Writ Petition was registered as 3435 of 2013. By an order dated 25.2.2015, the Hon'ble Division Bench (Coram : Ranjit More & Smt. Anuja Prabhudessai,JJ.) had passed an order as follows :-

“During the pendency of the petition, charge sheet shall not be filed against the petitioner in respect of the subject matter without prior leave of this Court.”

In Criminal Writ Petition No.3487 of 2014 the Hon'ble Division Bench has considered the order dated 25.2.2015 passed in Criminal Writ Petition No.3435 of 2013 and has granted the same protection to the present applicants. The Hon'ble Division Bench directed the investigating agency not to file charge sheet without prior permission of the Court and in view of this, the learned counsel for the applicants seeks pre-arrest bail.

4. The procedure followed by the investigating officer and the conclusion drawn by the investigating officer is under challenge before the Hon'ble Division Bench and in view of this, the applicants deserve pre-arrest bail.

5. It is made clear that these applications under Section 438 of Cr.P.C. are not being considered on merits. That only because the Hon'ble Division Bench has passed an order that no charge sheet shall be filed, this Court is inclined to grant pre-arrest bail.

6. The above observations are prima facie in nature and shall not be

considered for the purpose of quashing of FIR, discharge application or at the time of trial.

7. By the order of Hon'ble Division Bench in Criminal Writ Petition No.3435 of 2014 and Cri. W.P.No.3487/2015, it is clear that the investigation would continue. The embargo is upon filing of the charge sheet without prior permission of the Court. In view of this, the applicant shall co-operate with the investigating agency.

ORDER

(i) In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like mount.

(ii) The applicants shall report to the concerned police station on every alternative Sunday for a period of six months or till the filing of the charge sheet, whichever is earlier and co-operate with the investigating agency to the best of their capacity.

Applications are allowed and disposed of in the above terms.

(SMT.SADHANA S.JADHAV, J.)