

nsc.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1187 OF 2015

1. Priyankar Bibhuti
 2. Abhijit Date
 3. Srivathsa Yajaman,
 4. Peter Salazar
 5. Manish Malu
- ...Applicants

Versus

The State of Maharashtra

...Respondent

Mr.Mahesh Jethmalani, Senior Advocate a/w Mr.Pranav Badeka,
Shrivardhini Parchure and Omkar Bade i/b Desai & Diwanji, for the
Applicants

Mr. S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd SEPTEMBER, 2015

P.C. :

1. Heard learned Senior Counsel for the applicants and the
learned A.P.P.

2. By this application, the applicants seek pre-arrest bail in
connection with C.R. No.II-26 of 2015 registered with the Turbhe, MIDC

Police Station, Navi Mumbai for the alleged offences punishable under Sections 3, 7, 8 and 10 of the Essential Commodities Act, 1955 r/w Maharashtra Solvent, Raffinate and Slop (Licensing) Order, 2007.

3. The complainant is one Bhaskar Fattuji Tayade, Assistant Controller of Rationing, who has lodged the aforesaid FIR/complaint alleging the aforesaid offences. Applicant nos.2 to 5 are the Directors of M/s.Merck Life Science Private Limited and the Applicant no.1 is the Warehouse Manager of M/s.Merck Life Science Private Limited. According to the complainant, in an inspection which was conducted on 15th May, 2015 at the warehouse of the company, essentially 2 illegalities were found ; (1) that the Explosive Licence was not in the name of M/s.Merck Specialties Private Limited but was in the name of M/s.Kromph Rubber Private Limited; and (2) that M/s.Merck Specialties Private Limited had acquired the stock for sale of solvents, without a license. In view of the aforesaid, a complaint was lodged as against M/s.Merck Life Science Private Limited, Applicant No.1 – Priyankar Bibhuti, an employee of M/s.Merck Life Science Private Limited and the Board of Directors of the said Private Limited Company.

4. Learned Senior Counsel for the Applicants submitted that the applicant nos.2 to 5 were the Directors of M/s.Merck Life Science Private Limited and had no concern with M/s.Merck Specialties Private Limited, who is alleged to have committed the aforesaid offences. He submitted that it is only in May, 2015 that M/s.Merck Life Science Private Limited had taken over M/s.Merck Specialties Private Limited. He submitted that the Explosive Licence, granted to M/s.Kromph Rubber Private Limited, the owner of the warehouse, was pursuant to the directions of the Explosive Authorities, as the said Explosive Licence could not be obtained in the name of the Company, but was required to be in the name of the owner of the warehouse, where the stock, was to be kept. He submitted that the resellers licence was in operation, since 2007 in the name of M/s.Merck Specialties Private Limited and that the said licence shows that the authority was aware of the details of the Explosive Licence and that the stock was being stored in M/s.Kromph Rubber Private Limited. He further submitted that after the licence was suspended in October 2014, the company had not sold the product i.e. solvents. He submitted that the issue of licence is pending before the Competent Authority. He submitted that even otherwise, the nature of the allegations are technical in nature, as the

dispute is with regard to the licence, and whether the same ought to have been in the name of the company or in the name of the owner of the premises. He submitted that as the offence is technical in nature the custody of the applicants is not required.

5. Learned APP on the instructions of the Investigating Officer, who was present in the Court yesterday, states that the custody of the applicants is not necessary.

6. Perused the papers. *Prima facie*, considering the nature of allegations, it appears that the breach, if any, is technical in nature, for which custody of the applicants is not necessary. Considering the aforesaid, the applicants are granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.10,000/- each with one or two sureties in the like amount ;

(ii) The applicants shall attend the concerned Police Station, as and when called for by the Investigating Officer ;

(iii) The applicants shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.

CERTIFICATE

*Certified to be true and correct copy of the original signed
Judgment/order.*
