

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

ANTICIPATORY BAIL APPLICATION NO.1803 OF 2015

Salar Ilahi Chause ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Ashok P. Munderg, senior counsel i/b. Mr. Shriram S.
Chaudhari for the Applicant.

Mr. S.S. Pednekar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 18th JANUARY, 2016.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicant in apprehension of his arrest in Crime No.260 of 2015 registered at Pandharpur Taluka Police Station, District-Solapur, for offences punishable under sections 328, 188, 272 and 273 r/w. 34 of the IPC, sections 26(2) (i), 26(2) (ii) and 26(2) (iv) of the Food Safety and Standards Act, 2006 and sections 7 and 13 of the Prevention of Corruption Act.

2. The Applicant herein was a police Inspector attached to Mangalvedha Police Station. It is alleged that the three other

constables, co-accused in the same crime had intercepted a Tempo bearing No. MH 13 BJ7981, which was carrying banned substance viz. Gutkha and Panmasala. It is alleged that the co-accused had informed the Applicant herein that the said Tempo was intercepted and that it was loaded with Gutkha and Pan Masala and that the Applicant had instructed them to release the Tempo on accepting minimum bribe amount of Rs. 5,00,000/-.

3. Mr. Ashok Mundergi, the learned senior counsel for the Applicant has submitted that the allegations against the Applicant are mainly based on the statement of one Samadhan Babar. He has submitted that the statement of said Samadhan Babar does not indicate that the owner of the said Tempo had paid Rs.5,00,000/- to the constables. The statement of said Samadhan Babar also does not prima facie indicate that the witness Yadav was present at the Dhaba or that he had informed said Yadav about the deal between the police personnel and the owner of the said banned substances. Though the statement of Navnath Yadav further indicates that he had seen the owner of the said Tempo handing over the gunny bag to the police constable Devkate, the remand applications dated 19.9.2015 and 5.11.2015 narrate a different story. The learned counsel for the Applicant has submitted that the Applicant herein had registered a

crime against said Navnath Yadav and hence the witness has animosity towards the Applicant. Furthermore two other crimes have been registered against the witness at Mandrup and Mangalvedha Police Stations, District-Solapur. The learned counsel for the Applicant claims that the said witness cannot be believed. The learned senior counsel for the Applicant has submitted that the Applicant is falsely implicated due to departmental rivalry.

4. Mr. S.S. Pednekar, the learned APP has submitted that said Yadav is a whistle blower. He has submitted that the Applicant is involved in demanding bribe amount of Rs.5,00,000/- and that the other co-accused had accepted the said amount from the owner of the said banned Gutka and Pan Masala. He has further submitted that the Applicant herein and the other co-accused were in contact with the Applicant and the Applicant had told the co-accused to release the said Tempo on receipt of amount of Rs.5,00,000/-. He has further submitted that the Call Data Records also reveal that the co-accused Devkate had made a phone call to this Applicant at relevant time i.e. at about 12.30 a.m. The learned APP claims that the records prima facie reveal the involvement of the Applicant in commission of the said crime.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. The records prima facie reveal that a Tempo bearing No. MH 13 BJ7981 was intercepted near Daulatrav College at Pandharpur. Said Tempo was loaded with banned substance viz. Gutkha and Pan Masala. It is alleged that the police constables, who were on patrolling duty had used the Ertica car No.MH-13 BC 0014, of Samadhan Babar to escort the said Tempo, which was carrying prohibitive and banned substance to enable the vehicle to speed past the check post. It is alleged that the said constables had informed the Applicant that the said Tempo was loaded with banned substances carrying Gutkha and Pan Masala and that the Applicant had instructed them to allow the said vehicle to proceed to Pandharpur on payment of minimum bribe amount of Rs.5,00,000/-.

6. The statement of Navnath Yadav, who is stated to be the whistle blower, prima facie reveals that Samadhan Babar had told him about interception of the vehicle containing banned substance and subsequent negotiations on payment of illegal gratification. He claims to have seen the owner of the vehicle handing over a wire bag to the police constable Devkate. This witness claims that Samadhan Babar had told him that owner of the said banned substances had given

Rs.5,50,000/- to the constables, whereas the case put forth in the remand application at page 64 is that the amount was agreed to be paid after reaching Pandharpur. It was alleged that no amount was paid as the vehicle was intercepted before reaching Pandharpur.

7. The statement of Samadhan Babar also does not prima facie indicate that Navnath Yadav was present at said hotel at Shivneri. The statement of Samadhan Babar also does not indicate that the owner of the said banned substances had paid money to the police. It is pertinent to note that the statement of Samadhan Babar dated 15.9.2015 does not prima facie indicate that the co-accused had phoned the Applicant or that the Applicant had asked the co-accused to release the tempo on payment of bribe. Such allegations were made for the first time in the supplementary statement dated 18.9.2015. It is also to be noted that said Samadhan Babar had lodged the FIR against the police constable, who had allegedly taken his Ertica Car. No such allegations were levelled against the Applicant for the said FIR.

8. The learned counsel for the Applicant has also placed on record a copy of the FIR, a perusal of which prima facie indicates that much prior to registration of the present FIR the present Applicant had registered a crime against said witness (Navnath Yadav). Furthermore,

two other crimes have been registered against this witness.

9. The above facts and circumstances would not justify custodial interrogation. The Applicant being a public servant is otherwise not likely to abscond.

10. Under the circumstances, the application is allowed on the following terms and conditions:

- (i) In the event of arrest of the Applicant in Crime No.260 of 2015 registered at Pandharpur Taluka Police Station, District-Solapur, the Applicant shall be released on bail on furnishing bail bond of Rs.40,000/- (Rupees Forty Thousand only) with one surety to the like amount.
- (ii) The Applicant shall join the investigation and report to the Investigating Officer for seven days from 10.00 a.m. to 1.00 p.m. from the date of the receipt of the order and further as and when required by the Investigating Officer.
- (iii) The Applicant shall not leave Sangli-District and Solapur-District without prior permission of the Special Judge, Pandharpur.

(ANUJA PRABHUDESSAI, J.)