

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 666 OF 2016

Dr. Avinash Krushnarao Kadam ...	Applicant
Vs.	(Accused No.1)
The State of Maharashtra ...	Respondent

Mr. Rahul S. Kate Advocate for the applicant.
Mr. Prashant Jadhav, APP, for the State.
Mr. B. K. Bankar, Police Constable, Baramati City Police Station, present.

CORAM: SMT. SADHANA S. JADHAV, J.
DATE : 5th October, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No.143 of 2016 registered at Baramati City Police Station for the offences punishable under Sections 420m 465m 471 of the Indian Penal Code and under Sections 33I (a)(i), 33I (1)(iii), 33I (b) of Drugs and Cosmetics Act, 1940.

2. It is the case of the prosecution that Sandip Narayan Narvane who is working as a Food Inspector lodged a report at the police station alleging therein that on 4.3.2016, he had received a secret information that Capsule 30 CAP VATA manufactured by Astha Pharma company is being

sold at Kashigaon. They had raided the said premises along with the Drug Inspector and had seized the bottles. It had transpired that the Capsules 30 CAP VATA were being manufactured by Astha Pharma company of which the present applicant is a proprietor. The bottles were seized and sent for examination to the Government Analyst, Drugs Control Laboratory. The reports are received on 23.9.2016 and it is revealed that the capsules 30 CAP VATA is an ayurvedic medicine, the composition of which is – Rasna 100 mg, Sallaki 100 mg, Punarwa 100 mg, Yogiraj 100 mg, and Shilajeet 100 mg. It is also reported that the sample does not give any identification test for the presence of steroids and it contains mainly Diclofenac Sodium which is reported to be a pain killer. The report also shows that the sample contains 145.36 mg. of Diclofenac Sodium. hence, the ayurvedic drug is spurious. The offence punishable under the Drugs and Cosmetics Act Section 33-EA(d) a summary triable offence.

3. The applicant is also being prosecuted for the offence punishable under Sections 420, 465 and 467 of the IPC. The applicant appears to be posing as an Ayurvedic doctor. However, he has registered with Maharashtra Council of Homeopathic, Mumbai. The registration number is: 22841. His initial date of registration is 13.10.1995.

4 It is pertinent to note that in the present case, the first information report is lodged on 5.3.2016 and on 20.4.2016, the applicant has renewed the registration with the Maharashtra Council of Homeopathic, Mumbai. It is clear from the records that the investigation agency has not informed the Maharashtra Council of Homeopathic, Mumbai that the applicant is being prosecuted for the offence punishable under the provisions of Drugs & Cosmetics Act. It is true that the applicant is manufacturing the said capsules without there being any licence . The very business is an illegal business.

5. The investigating officer shall immediately inform the Maharashtra Council of Homeopathic, Mumbai that in violation of the professional ethics, the applicant has indulged into manufacturing spurious drugs without any licence. The investigating officer to inform the same forthwith and place the papers and this order before the Maharashtra Council of Homeopathic, Mumbai within two weeks from today. The office shall also communicate this order to the Registrar of Maharashtra Council of Homeopathic, Mumbai, forthwith.

6. As far as the custodial interrogation of the applicant is concerned, it does not appear that custodial interrogation would be

imperative and hence the applicant deserves to be granted pre-arrest bail.

6. It is made clear that the observations made hereinabove are prima facie in nature and shall not be considered for the purpose of deciding the application for quashing of FIR, discharge application or at the time of trial since the cases under the Drugs & Cosmetics Act are summary triable cases. However, the applicant is liable to be prosecuted under Sections 420, 465 and 467 of the Indian penal Code.

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (iii) The applicant shall report to the concerned police station from 10th October to 20th October, 2016 every day between 10 a.m. to 12 noon and co-operate with the investigating agency to the best of his capacity.

The application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)