

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1243 OF 2016

Mr. Rehmatullah Ismail Mulla	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Ms. Anjali Awasthi, Advocate for the applicant.

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

Mr. S.K.Ramdas, P.I. and Mr. S.R.Ingale, PSI, Unit-4, Crime Branch present.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 28th September, 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.25 registered at New Panvel Police Station for the offences under Sections 379, 120-B of the Indian Penal Code, Sections 41 and 42 of the Indian Forest Act and Rules 66, 82 and 129 of the Bombay Forest Act.

2. It is the case of the prosecution that on 26.2.2015, Dadu Raktade, who was posted as Police Constable at New Panvel Police Station, lodged a report alleging therein that on 17.2.2015, they had a secret

information that a truck/trailer is parked on Mumbai-Goa Highway. It is in an abandoned condition. The police went to the spot. It was a container. The panchnama was drawn. The description of the container is given in the first information report. They inspected the contents of the said container and found red sandal wood, the cost of which was Rs.21,60,000/-. They started investigation and at that time in the course of investigation it was revealed that the owner of the truck is Ramchandra Pawar, resident of Pawarwadi, Taluka Javli, District Satara. He was not found. It was further revealed that the truck was transferred only on the basis of a T.T. Form to a person called Akbar. Upon enquiry with Akbar, it was revealed that the truck/trailer has been purchased by Prashant Bhillare in the name of Sambhaji Yadav. The investigation continued. Bharat Patil had filed Anticipatory Bail Application No.904 of 2016. It was contended in the said application that Bharat Patil is the driver of the truck and no role is played as alleged in the offence. The said application was rejected by the Hon'ble Predecessor Bench vide order dated 20.6.2016.

3. In the course of investigation, Prashant Bhillare was arrested. In the course of interrogation, he had informed that one Rehmatbhai had utilised the services of the driver Ramjatan Kol. It was alleged that the

applicant is involved in the transportation of red sandal wood. In the first information report, the details of the offence have been narrated . After recording statement of Umesh Singh who is the clearing house agent. It had revealed that red sandal wood is being exported to Dubai without a valid licence.

4. The learned counsel for the applicant submits that the full name of Rehematbhai is not mentioned in the first information report. The learned counsel has further submitted that the applicant was called upon by the Crime Branch and at that time, he had realized that he is shown to be involved in the said offence.

5. The learned APP has placed on record a copy of the station diary dated 16.3.2015 which shows that on that day, the present applicant was brought to the police station. The enquiry was being made. The address shown in the station diary matches with the address given in the cause title of the application. On 12.3.2016, the applicant was contacted. There was an enquiry with the other accused also. The learned APP submits that the applicant was called on that day. Similarly, Prashant Bhillare was also called. The applicant was asked to attend the police

station subsequently to co-operate with the investigating agency. Prashant Bhillare has been arrested by the police. It appears that the applicant had agreed to co-operate with the investigating agency. However, thereafter he did not report to the police. The accused Prashant Bhillare, Kishore Yadav, Kishore Biramane and Umesh Singh were put for test identification parade. They were to be identified by Ramjatan Kol. Charge-sheet is filed.

6. The learned counsel for the applicant submits that Ramjatan Kol has not named the present applicant. Upon perusal of the statement of Ramjatan Kol, he had disclosed that there were four unknown persons and in the eventuality of being confronted with them, he would be able to identify the person who was acting as an agent/owner/trader of the red sandal wood. It is in these circumstances that the applicant does not deserve the grant of pre-arrest bail as it is necessary to put him for test identification parade. The custody of the applicant would also be necessary to interrogate in respect of not only the red sandal wood which was found in the container, but also in respect of the sources of red sandal wood and the trading of red sandal wood as well as the illegal export of red sandal wood. It prima facie appears from the papers of investigation that the present applicant, in all probabilities, was the principal agent or the prime accused

in such trade. It is in these circumstances that the application seeking pre-arrest bail deserves to be rejected.

7. It is made clear that the observations made hereinabove are prima facie in natujre and are restricted to an application under Section 438 of Cr.P.C. and shall not be considered at the time of deciding an application under Section 439 of Cr.P.C.

The application stands rejected.

(SMT.SADHANA S.JADHAV, J.)