

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

ANTICIPATORY BAIL APPLICATION NO. 2010 OF 2016

Mr. Mukesh Gangji Chedda

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr. Prashant Pandey i/b Mr. Prashant Tambe, Advocate for the Applicant.
Mr. Deepak Thakare, A.P.P. for the Respondent – State.

CORAM : N.W. SAMBRE, J.

DATED : 22nd NOVEMBER, 2016.

P.C. :

1 The applicant is seeking pre-arrest bail in Crime No.92 of 2016 for the offences punishable under sections 3, 7, 8, 9 of the Essential Commodities Act.

2 The applicant is a ration shop licence holder whose premises were inspected by the competent authority and it was noticed that the stock of the schedule commodity which was disbursed to the applicant for further distribution under the public distribution system was found short as under :-

Rice 2856 kg. Wheat 5455 kg. and kerosene 1091 ltrs.

3 Independent proceedings in relation to the action to be taken for the licence under the Essential Commodities Act are already initiated. The Manager of the applicant is informed to have been arrested and is already released on bail.

4 In the above referred background, the learned counsel for the applicant submits that the applicant is entitled to be released in view of order passed by this Court in Anticipatory Bail Application No.1193 of 2016 dated 19.07.2016 as the factual matrix in the said case is at par with that of the present case. The next line of submission of learned counsel is admittedly from the contents of the F.I.R., it could infer that when the offence took place the applicant was not present in the City and it is the Manager who is responsible for the alleged act, if any. The next submission is that the M.P. High Court 2016 has already observed that the offence under the Essential Commodities Act particularly Section 7 is a bailable one.

5 The learned A.P.P. opposed the application on the ground that the offence in question is an white color crime which has direct impact over the consumers/beneficiaries under the public Distribution System as they are denied with legitimate entitlement. It is then claimed that the applicant has tried to get undue advantage and enrichment out of the sale of scheduled commodities in the open market.

6 Having bestowed my thoughts to the submissions made though the learned counsel invite attention of this Court in the order dated 19.07.2016 passed in Anticipatory Bail Application No.1193 of 2016, however, it is required to be observed here that the said order is ad-interim in nature and does not bind this Court while deciding the application finally.

7 One of the contention raised by the applicant was that the stock which was not traced in the shop of the applicant was stored in an

adjourning godown and the authority refused to take cognizance of the same, is also liable to be rejected in absence of any material on the record to that effect. It is also required to be observed that in case if the applicant is maintaining a godown for storing the schedule commodity, the lease that was expected from the applicant is to produce and permission to that effect from the competent authority.

7 Apart from above, the applicant has produced the registration certificate of the establishment under the Maharashtra Shops and Establishment Act, 1948 however, same cannot be termed to have permitted the applicant to sale the commodity in open market as there has to be an independent licence for dealing with the commodity in question.

8 The overall conduct of the applicant particularly of passing of responsibility to his Manager and having found the short of commodities than the one as was issued to him for Public Distribution System the applicant could be held directly responsible being a licence holder.

9 In this background no case for bail is made out. Application is rejected.

10 The learned counsel for the applicant submits that the applicant was already proceeded by departmentally in the matter of operation of his licence and the penalty is imposed by the revenue authorities. The same cannot be read to the benefit of the applicant particularly when those proceedings are prima facie civil in nature and the only inference from the said order of imposing penalty is that the applicant is involved in the crime in question.

The learned counsel for the applicant at this stage submits that the applicant since was on a protection before the learned Sessions Judge the protection be extended for a period of four weeks which prayer is opposed by the learned A.P.P.

10 The said prayer of the applicant is rejected for the reason that there was no protection operating in favour of the applicant since the order of Sessions Judge till date.

(N.W. SAMBRE, J.)