

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 487 OF 2017

Sagar Ashok Chavan

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 488 OF 2017

Machhindranath Ganpat Maske

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr.Sarang S.Aradhye a/w Mr. Milind P. for the Applicants in both the Applications.

Ms.Pallavi N.Dabholkar, APP for the State-Respondent.

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CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: MARCH 20, 2017

P.C. :

1. Both the applications are heard and decided together as the applicants-accused are facing same charges under sections 3 and 7 of the Essential Commodities Act, 1955. The offence is registered as C.R.No. 103 of 2017 with Pandharpur City Police Station, Solapur.

2. It is the case of the prosecution that one Police Naik, viz. Vishal Bharat Ghatge, on 2nd February 2017, at the time of patrolling, on secret information received to them, raided one tempo. One Sagar Ashok Chavan was the driver of the said tempo and Machhindranath Maske

was going with him. On search, they found 40 bags of rice, each containing 50 kg, and thus they were transporting total 2000 kg rice illegally without any permission. These applicants-accused could not give satisfactory answers to the questions put by the police and therefore, the complainant wrote a letter to the Tahsildar, Pandharpur for further enquiry as to from where these 40 bags of rice were brought. The Tahsildar, Pandharpur informed that these 40 bags of rice were from rationing scheme to be distributed as per Government scheme amongst weaker section of society. Thereafter, on 8th February 2017 the offence was registered against the applicants-accused under sections 3 and 7 of the Essential Commodities Act, 1955.

3. The learned counsel for the applicants-accused has submitted that the applicants-accused are prosecuted for the offences punishable under sections 3 and 7 of the Essential Commodities Act, though the offence is bailable. The applicants-accused do not have criminal antecedents. He relied on the judgment dated 25th May 2010 passed by this Court in ***Criminal Application No. 2592 of 2010 i.e. Sampat Namdeo Ghorpade Vs. The State of Maharashtra***, wherein the case of ***Dinesh Kumar Dubey Vs. State of M.P.*** reported in 2001 Cri.L.J.1306 is dealt with on the point of entertaining the application under section 438 of Cr.P.C., if the case is registered under sections 3 and 7 of the Essential Commodities Act. He further submitted that it is considered that the offences under the said Act were non bailable for a period of 15 years i.e. from 1982 when section 10-A was amended. Section 10-A now says that all the offences punishable under the Act are cognizable and bailable.

4. The learned APP, while opposing these applications, has submitted that the applicants-accused are absconding and not attending the police

station. It is necessary for the police to find out as to from where these 40 bags of rice were taken by the applicants-accused.

5. Perused the judgment in the case of ***Dinesh Kumar Dubey*** (supra) passed by the learned Single Judge of the Madhya Pradesh High Court and the order in the case of ***Sampat Namdeo Ghorpade*** (supra) passed by the learned Single Judge of this Court and relied upon by the learned counsel for the applicants-accused. *Prima facie*, it appears that after 15 years from 1982, the offences punishable under the Essential Commodities Act were non bailable as per section 10-A of the Act. However, now a days it is to be considered that the offences under sections 3 and 7 of Essential Commodities Act are bailable. So also having considered the fact that the 40 bags of rice each containing 50 kg were seized by the police and that the applicants-accused do not have any criminal antecedents, I am inclined to grant pre-arrest bail to the applicants-accused on the following terms and conditions.

ORDER

- a) In the event of arrest, the applicants-accused shall be released on bail upon furnishing P.R. Bond in a sum of Rs.20,000/- (Rupees Twenty Thousand only) each with one or two solvent sureties in the like amount.
- b) The applicants-accused shall cooperate with the Investigating Officer and attend the concerned police station on every Thursday and Friday between 11.00 a.m. and 1.00 p.m. till 15th April 2017.

- c) The applicants-accused shall not tamper with the evidence and shall not indulge into any criminal activity.
 - d) The applicants-accused shall not abscond or leave India without prior permission of the Court and furnish their permanent addresses to the Investigating Officer alongwith documentary proof of their addresses.
 - e) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.
6. Anticipatory Bail Applications are disposed of in the above terms.

(MRIDULA BHATKAR, J.)