

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1290 OF 2017
AND
ANTICIPATORY BAIL APPLICATION NO.1294 OF 2017

Jayprakash Babulal Agarwal	Applicant
versus	
The State of Maharashtra	Respondent

Mr.N.R.Dalvi with Mr.S.C.Pal for applicant.
Mr.Deepak Thakare, APP, for State in ABA No.1290/2017
Mr.R.A.Shaikh for intervenor.
Mr.R.M.Pethe, APP in ABA No.1294 of 2017

CORAM : PRAKASH D. NAIK, JJ.

DATE : 26th July 2017

PC :

1. The applicant is apprehending arrest in connection with CR No.82 of 2017 registered with Matunga Police Station, Mumbai under Sections 420, 465, 467, 468 and 471 of Indian Penal Code read with Sections 3, 7 to 9 of Essential Commodities Act 1955 read with Section 3(3-a) of Maharashtra Food Grains Rationing Order, 1966 read with Sections 18(3)(5)(I)(j).

2. The applicant has preferred Anticipatory Bail application No.1290 of 2017 seeking relief in connection with aforesaid first information report. There is another FIR registered vide CR No.87 of 2017 with same police station for similar offences. In respect to the second FIR, the applicant has filed Anticipatory Bail Application No.1294 of 2017. Both applications are being disposed of by this order.

3. The applicant had earlier preferred application for anticipatory bail before the Court of Sessions which was rejected by order dated 13th July 2017.

4. The prosecution case is that Smt.Vanmala Kharat was the Chairman of Mahila Bachat Gut namely Pragati Mahila Bachat Gut and Ganga Mahila Bachat Gut. In the FIR, it is mentioned that activities of said Bachat Guts are conducted by Vanmala Kharat. A fair price shop is being conducted at the instance of said Bachat Guts. It is alleged that other members of said Bachat Guts are not participating into day to day activities of the said Bachat Guts. One of the member of said Bachat Gut has expired. Even then her participation is shown. Both the Bachat Guts have been closed down in the year 2010. In spite of that, the activities are shown to have been conducted by way of creating false minutes. It is alleged that the co-accused and applicant have prepared said minute books and are indulging into illegal activities of conducting fair price shop. In the FIR, name of the applicant is not mentioned, however, during the course of investigation, the co-accused Vanmala Kharat was arrested. The complicity of the applicant has been revealed during investigation. Learned advocate for applicant submitted that there is no allegation against the applicant in the FIR. He has been falsely implicated in these cases. The allegations made against the applicant are imaginary. There is no cogent evidence to show that the applicant is involved in the said crime in any manner. The fair price shop was being conducted by the main accused and she was the member of said Bachat Guts. The applicant has nothing to do with said Bachat Guts.

5. Learned APP submitted that during investigation, it was revealed that the applicant has also played major role. He was acting in connivance with accused no.1 Vanmala Kharat. It is also submitted that applicant was present at fair price shop. It is further submitted that both the Bachat Guts were closed down in the year 2010, it was shown on record that they were still in existence. The documents in the nature of minute books etc. were prepared by accused no.1 in connivance with the applicant. It is submitted that the role of the applicant has to be investigated in detail considering the nature of offence.

6. It is submitted that the facility of fair price shop is provided in accordance with the scheme of government for the poor citizens, which was misused by the co-accused and the applicant. It is also submitted that in the entire correspondence/documents, telephone number of applicant was reflected, which shows his active involvement in conducting the said fair price shop. Taking into consideration above facts, the applications may be rejected.

7. I have perused both the FIRs and the orders passed by Sessions Court. Although name of the applicant is not reflected in the FIRs, during investigation, the complicity of applicant was revealed by the principal accused Vanmala Kharat. The involvement of the applicant is reflected in the documents and during interrogation of the co-accused. The submissions advanced by learned APP which were based on the investigation, are required to be considered, for which custodial interrogation of the applicant is necessary.

8. In the circumstances, I am not inclined to allow the applications and both the anticipatory bail applications are rejected.

(PRAKASH D. NAIK, J.)

MST