

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1329 OF 2016

Vishesh R. Agarwal

..Applicant

-Versus-

State of Maharashtra

..Respondent

Mr. Abad Ponda i/b. Prasanna Bhangale for applicant

Mr. Ranjeet Pawar for intervenor

Mr. Prashant Jadhav, APP for State

Mr. Rahul Yadav, PSI Baramati City Police Station present.

CORAM : MRS. MRIDULA BHATKAR, J.

DATE : 20th February 2017.

P.C.

1] The applicant accused apprehends arrest under section 420, 406 of the Indian Penal Code in C.R.No.321 of 2016 of Baramati City Police Station, Pune Rural. It is the case of the prosecution that the complainant had supplied the non edible oil seeds to the applicant accused. The applicant accused in turn supplied the bio diesel to the complainant who further supplied the same to many farmers. After use of bio diesel for their vehicles, the said vehicles got damaged and had to spend monies for repairs of these vehicles. The farmers, therefore, approached the complainant

and got the vehicles repairs through him or demanded money for the repairs. It is also the case of the complainant that towards these transactions the first informant has deposited Rs.21,31,846/- earlier in I.D.B.I., Bank of Baroda in the applicant's account. Thus, it is the case of the complainant that he has suffered loss of Rs.1,41,81,621/-. This transaction has taken place from 2008 onwards till August 2009. Thereafter the complainant contacted the applicant accused for recovery of the amount and also tried to settle the matter. It is also stated by the learned Counsel for the complainant, however, submitted that no civil suit for recovery of money under the transaction was filed. The complainant further sent the samples of bio diesel to the laboratory and the report discloses that adulteration of acid.

2] Thereafter, the complainant approached the police and the offence was registered in the year 2016.

3] The learned Counsel for the accused relied upon the receipts of the payment of the bio-diesel. He submitted that there are two types of bio-diesel available with the applicant accused viz., one is

of good quality which is used for the vehicles and was available at the rate of Rs.27 per litre and the other is of sub-quality which is called LDO available at Rs.10.50 per liter. The complainant had placed the order for ten containers of good quality of bio diesel and out of which seven of good quality and three are of LDO, which is sub-quality bio diesel. The learned Counsel submits that the payment was made by the complainant as per the rate prescribed. He further submitted that there is delay in lodging the FIR.

4] Learned Prosecutor opposes the applicant. Learned Counsel for the intervenor original complainant while opposing the bail application has relied upon the report given by the laboratory of the bio diesel where it shows that the quantity of the acid was generally expected to be 0.05 wherein the quantity was found to be 4.7 and 4.5 mg/liter. He further submitted that the complainant was pursuing this matter with the applicant – accused and, therefore, he could not lodge the complaint in time. He further submitted that though the complainant had given his written complaint to the police in 2012, the FIR was not registered by the police till 2016. However, the complainant did not lodge private complaint with the Magistrate. He

further relied upon the correspondence in this regard with the accused.

5] I have perused the documents. It appears prima facie that report discloses that bio diesel supplied by the applicant accused to the complainant at the time was adulterated as the percentage of the acid was found far more than the permitted one. The said report of the laboratory is available with the police. The money transaction between the parties is not denied. The applicant accused is on interim bail by an order passed on 25th October 2016 and was available to the police for interrogation. Considering these factors, I am of the view that custodial interrogation of the accused applicant is not required, the interim protection is confirmed. The applicant shall attend the concerned police station on every Saturday between 11.00 a.m. and 1.00 p.m. till filing of the charge sheet. Anticipatory bail application is disposed of.

(Mridula Bhatkar, J.)

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CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.699 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION NO.1329 OF 2016

Vishesh R. Agarwal	..Applicant
-Versus-	
State of Maharashtra	..Respondent

Mr. Abad Ponda i/b. Prasanna Bhangale for applicant
Mr. Ranjeet Pawar for intervenor
Mr. Prashant Jadhav, APP for State
Mr. Rahul Yadav, PSI Baramati City Police Station present.

CORAM : MRS. MRIDULA BHATKAR, J.

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1] In view of the order passed on A.B.Application, this application does not survive and disposed of as such.

(MRIDULA BHATKAR, J)