

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1883 OF 2016

Mahindra Devji Bhanushali	Applicant
versus	
The State of Maharashtra	Respondent

Mr.B.G.Tangsali for Applicant.
Smt.J.S.Lohokare, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 4th July 2017

PC :

1. This is an application for anticipatory bail in connection with CR No.21 of 2016 registered with Gowandi Police Station for offences under Sections 3, 7 and 8 of Essential Commodities Act, 1955.

2. It is the prosecution case that on 26th September 2016, on receipt of information from Rajaram Jaiswal, editor of newspaper, about the tempo standing at Sion-Trombay Marg, Near Dwarukhana, Weighing machines. The informant along with pancha on 27th September 2016 inspected the tempo. At that time, Afsar Baig Mirza, an owner and the driver of the tempo, was present near the said tempo. There were 58 plastic bags of rice kept in the tempo and on inquiry it was informed that the Applicant had informed Mr.Afsar Mirza to deliver the said material to a kirana shop at Diva namely Anand Trading Co.. He also showed two receipts of Anand Trading Company in front of panchas. The said goods were carried from Mazgaon, Mumbai. It was revealed that the grains lying in the

tempo is of different quantity. The goods were provided by Government for sale in fair price shop on subsidy basis, but the same were tried to be sold at higher rate in open market. During search, 58 plastic bags of rice admeasuring 2,800 kgs. worth Rs.84,000/- were found in the vehicle. On inquiry about the grains found in the vehicle, the driver informed that the Applicant had instructed him to deliver the said goods to Nakoda Grocery Shop, Diva, Thane. He further stated that he was carrying the said material on the instructions of Applicant. The driver produced true copies of tax invoices in the name of Anand Trading Company. The quantity and weight of the goods mentioned on the paper and found in the tempo varied. He was unable to explain the same. Hence, the driver was arrested. It was further revealed that goods in tempo were from various ration shops. The license of ration shop was in the name of Karmashi Dedhia. It is the prosecution case that the Applicant is earning huge monetary benefits from the said notorious activities.

3. The Applicant preferred an application for anticipatory bail before the Sessions Court, which was rejected on 18th October 2016. Learned advocate for Applicant submitted that there is no evidence to link the Applicant with the said crime. He is sought to be arrested on the basis of statement of co-accused. He submitted that he has no role to play in the said crime. It is also submitted that the goods in question were seized by police and the custody of the Applicant is not necessary.

4. Learned APP opposed the Application. She pointed out the statements of witnesses implicating the Applicant in the said crime. She submitted that the investigation revealed that the Applicant is

involved in the said crime. It is necessary to interrogate the Applicant to unearth the conspiracy hatched by persons in the said crime. She further pointed out that earlier a case under Essential Commodities Act has been registered against the Applicant wherein he was involved in a similar crime. She also submitted that a case under Section 307 of Indian Penal Code is also registered against the Applicant.

5. Perused the FIR and other investigation papers pointed out by learned APP. The tempo was carrying 58 plastic bags of rice. During the course of investigation it was revealed that the goods were transported on the instructions of Applicant. No doubt, Muddemal is already seized, however, considering the role played by the Applicant and in the light of antecedents of the Applicant, no case for anticipatory bail is made out. Therefore, anticipatory bail application is rejected.

(PRAKASH D. NAIK, J.)

MST