

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2136 OF 2017

Rajendra Gularai Parikh ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr.Niranjan Mundargi i/b Kartik S.Garg for applicant.
Mr.R.M.Pethe, APP for the State.
Mr.Nitin R.Phulpagar, Malad Police Station.

CORAM: A.M. BADAR, J.
DATED: 8th DECEMBER, 2017

PC:-

1. The learned advocate for the applicant seeks' permission to amend. Leave as prayed is granted.

2. The applicant/accused in L.A.C No.86 of 2017, registered with Police Station, Malad for the offence punishable under Section 3,7,8 and 9 of the Essential Commodities Act, 1955 and under Section 3(1) (b)(c) of Liquefied Petroleum Gas Regulation of Supply and

Distribution Order, 2000 by this application is seeking pre-arrest bail.

3. Heard the learned advocate appearing for the applicant/accused. He argued that the applicant is no way concern with work of Krishna Gas Services raided by the Assistant Controller, Rationing on 16.11.2017. He had retired from the partnership firm way back on 15th July 2015. For this purpose, the learned advocate drew my attention to the deed of partnership, deed of admission cum retirement, deed of retirement as well as Civil Suit between the partners.

4. The learned APP opposed the application by contending that the dealership license in respect of the agency was in the name of present applicant and therefore he is liable for the consequences of mismanagement of the dealership of petroleum product.

5. I have carefully considered the rival submissions and also perused the material made available on record.

6. Premises of M/s Krishna Gas services came to be inspected by the Assistant Controller of Rationing Department on 16.11.2017. During that inspection it was found that the stock of cylinders filled as well as empty was not tallying with the actual cylinders found with the gas agency. The concerned officer found that domestic gas cylinders which are highly subsidised by the State are mis-appropriated and the amount of mis-appropriation came to be quantified as Rs.11,01,222/-. The first informant found documents in respect of partnership firm available at Krishna Gas agency and accordingly she lodged report against the present applicant as well as Nikhil S. Dange.

7. It is seen that initially, the present applicant was the appointed dealer of the petroleum products by the petroleum company. That is how Krishna Gas Services came to be

opened as an proprietary firm by the present applicant. The documents produced on record shows that on 1.11.2005 this proprietary firm is converted into the partnership by inducting Nikhil Dange as one of the partner. He was designated as a working partner, whereas, the applicant assumed the position of the sleeping partner. On 15.7.2015 a deed of admission cum retirement of partner of Krishna gas services came to be executed. Perusal of the said deed shows that the present applicant retired from the partnership firm and a new partner named Sureshchandra Mishra was inducted. This deed contains a specific recital that after 15.7.2015 the present applicant would not be responsible for affairs of the partnership firm running the Krishna Gas Services. Separate deed of retirement as well as indemnity bond came to be executed between the parties reflecting the retirement of the present applicant.

8. With passage of time, the present applicant filed the Civil Suit bearing No.1768 of 17 against the partnership firm

as well as the existing partners praying for statement of accounts of the partnership firm and for directing the defendants to pay certain undisputed amounts to him. The suit came to be contested by filing written statement by the defendants wherein, the defendants have accepted the fact that the present applicant had retired from the partnership firm. The balance sheet annexed to the written statement also shows that the applicant had retired from the partnership firm on 15.7.2015.

9. In the light of this position emerging on record, custodial interrogation of the present applicant in the crime in question is not at all warranted. Therefore, the following order:-

ORDER.

- i) The application is allowed.
- ii) In the event of his arrest in L.A.C No.86 of 2017, registered with Police Station, Malad for the offences punishable under Sections 3, 7, 8 and 9 of the Essential

Commodities Act, 1955 and under Section 3(1) (b)(c) of Liquefied Petroleum Gas Regulation of Supply and Distribution Order, 2000 the applicant/accused be released on bail on executing P.R bond of Rs.15,000/- and on furnishing surety in the like amount.

iii) The applicant/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

iv) He should not tamper with the prosecution evidence.

v) The applicant/accused to attend the police station as and when called by the investigators in writing and he should forward necessary documents such as deed of partnership, deed of admission cum retirement, deed of retirement, indemnity bond as well as copy of the plaint and written statement etc to the investigating officer.

vi) The application is disposed of accordingly.

(A.M. BADAR, J)