

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) 177 OF 2018

(Krushnakumar s/o. Bansgopal Agrawal @ Bandu Agrawal..vs.. The State, thr PSO,
PS Chandur Bazar, Dist. Amravati)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri S.P. Dharmadhikar, Senior Counsel assisted by Shri Nitin Lambat,
Counsel for applicant.
Shri V.A. Thakre, Addl. Public Prosecutor for non-applicant/State.

CORAM: ROHIT B. DEO, J.

RESERVED ON :06.07.2018

PRONOUNCED ON :03.08.2018

Heard.

2 The applicant is apprehending arrest in Crime 24 of 2018 registered at Police Station Chandur Bazar for offences punishable under section 3 and 7 of the Essential Commodities ('EC') Act, 1955 and sections 420, 468 and 471 of the Indian Penal Code ('IPC').

3 The First Information Report dated 24.1.2018 alleges that acting on information received, truck CJ-04-DA-9322 was intercepted while transporting 16.50 tonnes rice of the Public Distribution System ('PDS'). The driver disclosed that the rice belonged to the applicant. During inquiry, the applicant produced certain documents to show that the rice was purchased at the Achalpur Agricultural Produce Market Committee ('AAPMC'). The said AAPMC denied that the transaction took place in the market yard.

Initially, offence was registered under section 3 and 7 of the EC Act and later on offences punishable under the provisions of the IPC were added.

4 The learned senior counsel Shri S.P. Dharmadhikari would submit that there is not even an iota of material on record to suggest that the rice was of the PDS. The very substratum of the accusations therefore falls to the ground, is the submission. Shri S.P.Dharmadhikari, the learned senior counsel would then submit that the documents produced by the applicant to show that the rice was purchased from various agriculturists, are neither false nor fabricated. The applicant is admittedly a traders licence holder and the receipt only indicates that the applicant is a licenced trader and in no way purports to be a receipt issued by the AAPMC as evidence of a transaction within the market committee yard. The further submission is that there is no complaint from any godown keeper or licensee or a beneficiary that rice meant to be distributed through PDS is unaccounted for.

5 The Tahsildar, Chandur Bazar, Mrs. Shilpa Bobde who was present in the Court stated that there is no complaint from any card holder – beneficiary or any licenced shop owner or any officer in charge of the godown/s that any quantity of rice is unaccounted. Tahsildar Chandur Bazar is in charge of Chandur Bazar and Achalpur and she stated that on verification, the afore referred factual position has

emerged.

6 While deciding an application for grant of anticipatory bail, this Court is not expected to minutely evaluate the evidence on record. A decisive observation on the merits of the prosecution case must be avoided. However, prima facie, it does appear that there is no material to hold, that the rice which was being transported belonged to the PDS. If this be so, it is difficult to hold, even prima facie, that an offence punishable under section 3 and 7 of the EC Act is made out. In so far as the offences under the IPC are concerned, the accusations are based on documentary evidence in possession of the Investigating Agency. These offences are added later on on the premise that the applicant produced false documents to establish his ownership of the rice. Since the very substratum of the prosecution case that the applicant was transporting rice belonging to the PDS is rendered doubtful in a sense, I do not see any reason not to exercise the discretion in favour of the applicant. It must be noted that it is not even the case of the prosecution that there is any provision of law which burdens the applicant with a reverse presumption. The fact that the applicant was transporting rice does not take the case of the prosecution any further in the absence of prima facie material to show that the applicant was transporting rice meant to be distributed through PDS.

7 In this view of the matter, the application is

allowed.

8 In the event of arrest, the applicant shall be released on furnishing personal bond of Rs. 15,000/- with a solvent surety of like amount.

9 The applicant shall report Police Station Chandur Bazar once in a week till filing of chargesheet.

10 The applicant shall not tamper with the evidence nor shall he attempt to influence the witnesses in any manner.

JUDGE

RSB