

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1576 OF 2019

Kisan Narayanlal Kumavat & Anr.] ... Applicants

Versus

The State of Maharashtra] ... Respondent

Mr. Amit Ghag, Advocate for the Applicants.

Ms. S.S. Kaushik, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 9th JULY, 2019.

P. C. :-

1. The applicants are seeking bail in connection with C.R. No.160/2019 registered with Islampur Police Station, District Sangli u/sec. 4 and 5 of the Explosive Substances Act, 1908 and u/sec. 286 of I.P.C.

2. The FIR is lodged on 08/03/2019 by Police Constable Ganesh Shelke. It is mentioned in the FIR that the first informant and others were on patrolling duty within the limits of Peth village. On a service road, the police party saw a Scorpio Car bearing No.MH-09-DA-5370 The car was parked. The police went there and found that there were

two persons sitting in the car. They are the present applicants. There were some cardboard boxes kept on the rear seat of the car. The applicants informed the police that the boxes contained Gelatin sticks and Detonators. On further search, the police found that there were 10 cardboard boxes containing 2020 Gelatin sticks and two other cardboard boxes containing 1550 detonators. The car as well as the articles were seized. The applicants were arrested. Thus, the applicants are in custody since 08/03/2019.

3. The investigation was carried out and the charge-sheet is already filed on 06/05/2019.

4. Heard Mr. Amit Ghag, Ld. Counsel for the Applicants and Ms.S.S. Kaushik, APP for the State/Respondent.

5. Ld. Counsel for the applicants submitted that, applicants were mere employees of one Lehrulal Kumavat. They were transporting seized explosives at his instance. They had nothing to do with the ownership or possession of these explosives. He invited my attention to the statement of Lehrulal Kumavat recorded during investigation.

6. Mr. Ghag further pointed out that Lehrulal Kumavat had all the requisite licences required under the law. He therefore submitted that, the applicants had committed no offence and they deserve to be released on bail.

7. On the other hand, Ld. APP submitted that the quantity of the explosive substance was quite high. No sufficient precautions were taken while transporting them. The explosives were transported in violation of rules. Therefore, Ld. APP opposed the grant of bail to the applicants.

8. Perusal of statement of Lehrulal Kumavat shows that he is in the business of conducting blasting operations for the purpose of digging wells, canals etc. He needs Gelatin sticks and detonators for his business. He has godown at Narande, Taluka Hatkangale, District Kolhapur. He used to stock his explosives within the limits prescribed under the rules. He has requisite licence. He has a van which is used for transporting explosives from his godown to the place where the blasting operation was to be carried out. His work of area was within Sangli and Kolhapur districts. He has further mentioned in his

statement that he had placed order on 13/02/2019 with Devnarayan Enterprises for 75 boxes of Gelatin sticks which was sent on 06/03/2019 and were stored in his godown after making entries. Similarly, he had placed order for 43,500 detonators order on 21/02/2019. He had received 30,000 detonators on 03/03/2019 which was also stored in his godown after making entries. He has used some of these explosive substances for his business.

9. On 08/03/2019, one of his customer required 10 boxes of Gelatin sticks and 1550 detonators. Therefore, Lehrulal Kumavat sent those articles in his van. The van was driven by Applicant No.1 – Kisan . It was sent to Rethredharan Village. It was also mentioned in his register. After some time, he received a phone call that the van had broken down. Lehrulal Kumavat was concerned about safety and therefore, he wanted to remove those substances to the godown. Therefore, he immediately sent his car to the spot where the van had broken down. The Scorpio car was driven by Applicant No.2. After some time, he received a phone call that his Scorpio car was seized by the police and the explosive substances were seized as well.

10. The charge-sheet contains statement of one Narayanlal Sharma who was Manager of Jayshiv Company. This company transported the substances sent by Devnarayan Enterprises. Thus, he supports the statement of Lehrulal Kumavat.

11. Mr. Ghag invited my attention to various licences issued in the name of Lehrulal Kumavat. They are also part of the charge-sheet. The licences were valid on the date of seizure i.e. 08/03/2019.

12. Thus, taking into account the entire material on record, it is more than clear that the applicants were acting at the behest of their employer. The employer had all the requisite licences and he in fact acted diligently when his van broke down. The employer wanted to shift those explosive substances to a safe place and therefore, Scorpio car was sent. The offence as alleged by the prosecuting agency is not clearly made out against the present applicants. In any case, they were mere employees of Lehrulal Kumavat. Therefore, they cannot be held primarily responsible for the alleged breach of any rule. In this view of the matter, the applicants deserve to be released on bail. Hence, the following order.

ORDER

1. The Applicants are directed to be released on bail in connection with C.R. No.160/2019 registered with Islampur Police Station, District Sangli, on their furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)