

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2025 OF 2018

Kapil Shankarlal Sharma] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.2057 OF 2018

Pawankumar Chanbasappa Dhangapure] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.2570 OF 2018

Sayed Moinuddin Sayed Abdul Hamid] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Raviraj Paramane, Advocate for the Applicants in ABA No.2025/18 and ABA NO.2570/18.

Mr. Niranjan Mundargi i/b Mr. Vaibhav Gaikwad, Advocate for the Applicant in ABA No.2057/18.

Mr. Rajan Salvi, APP for the State/Respondent.

API Anil Atmaram Devade attached to Solapur Taluka Police Station present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 8th AUGUST, 2019.

P. C. :-

1. All these applications are being decided by this common order because they arise out of the same registered offence based on the same facts.

2. The applicants are apprehending their arrest in connection with C.R. No.I-503/2018 registered with Solapur Taluka Police Station, District Solapur u/sec. 420, 465, 467, 468, 471 r/w 34 of I.P.C. and u/sec. 3 and 7 of The Essential Commodities Act, 1955.

3. The offence is registered on 29/08/2018. It is mentioned in the FIR that, the first informant was attached to Solapur Taluka Police Station as PSI. He was instructed by his senior that, two trucks bearing no.MH-18-BA-9991 and MH-18-AA-6261 were intercepted by officers of Solapur Taluka Police Station and the station diary entry in that behalf was made on 15/08/2018. Those trucks were containing rice valued about Rs.50 Lakhs. The informant made inquiries with the drivers of these trucks. They told him that, on 10/08/2018, the applicant Kapil Sharma in ABA No.2025/2018 had instructed them to

load rice from Bellary and the person from whom the rice was to be taken was known as Pawankumar Dhangapure. The said person Pawankumar Dhangapure is the applicant in ABA No.2057/2018.

4. According to these drivers, they had loaded these trucks with rice near Rajlaxmi Dhaba, Bellary, Karnataka. The first informant inspected the bills produced by these drivers. The bills were showing that, the rice taken from Tanvi Agency and was to be transported to M/s.Laxminarayan Brokers, Sanand, Ahmedabad, Gujarat. The investigation was carried out by the first informant and his team and it was revealed that, there were no such agency in existence either by name Tanvi Enterprises from where the rice was supposed to have been purchased nor M/s. Laxminarayan Brokers where it was to be delivered. Therefore, the informant was satisfied that, the bills were forged and the rice was illegally procured. On these basis, the FIR was lodged. Though the FIR does not mention name of the applicant Sayed Moinuddin in ABA No.2570/2018, it is the case of the prosecution that, the applicant Pawankumar Dhangapure had procured this rice from Sayed Moinuddin.

5. Heard Mr. Raviraj Paramane, Ld. Counsel for the Applicants in ABA No.2025/18 and ABA No.2570/18, Mr. Niranjana Mundargi, Ld. Counsel for the Applicant in ABA No.2057/18 and Mr. Rajan Salvi, Ld. APP for the State/Respondent.

6. Both the Ld. Counsel for the applicants submitted that, their clients had genuine bills but the investigating agency refused to investigate in that behalf. They submitted that, the transaction was genuine and the suppliers as well as transporters were genuine. They submitted that, they have produced original bills with the investigating agency and the bills were deliberately ignored. Mr.Paramane submitted that, the applicant Sayed Moinuddin was member of the Radha Central Co-operative Consumer Society, Ambejogai, District Beed. He submitted that, the order was placed by the applicant Sayed Moinuddin on behalf of this society with M/s.New Baba Rice Mill, Siruguppa, Karnataka State and M/s.Mahavir Traders, Ambejogai. He submitted that, the investigating agency has deliberately not investigated in that behalf. Both the Ld. Counsel for the applicants submitted that, the source of purchase of rice is clearly mentioned in these applications and yet for over a period of one year

the investigating agency had not deliberately made any efforts to find out the genuineness of the applicants' claim

7. As against these submissions, Ld. APP submitted that, the bills which were found with the drivers were forged bills and for that purpose the detailed investigation was conducted. Therefore, the investigating agency has rightly proceeded against the present applicants. He submitted that, the prosecution case is that the rice was procured through different rationing shops in Karnataka State.

8. I have considered these submissions. The investigating agency has claimed that, the rice was procured from some rationing shops from Karnataka is not substantiated by any material whatsoever. There is nothing on record in the entire investigation papers to show that, the rice was taken away from any rationing shop. The investigating agency has not traced the source of goods in question. At this stage, Ld. Counsel for the applicants have relied on the two shops of sellers from the whom the applicant Sayed Moinuddin had purchased this rice. For over a period of one year there is no investigation in that behalf. The prosecuting agency has not brought to my notice any order issued under the Essential Commodities Act

which is alleged to be violated by either of these applicants. The applicant Kapil Sharma and Pawankumar Dhangapure were the transporters. The applicant Sayed Moinuddin had placed the order for that rice which was to be delivered to Shri Sant Rice Mill at Shirur, Sangli. The prosecuting agency has not disputed their claim and therefore, no cogent material is placed on record. In this view of the matter, the applicants are entitled for protection of anticipatory bail. They are on interim protection for over a period of one year. No fruitful evidence is collected by the investigating agency showing their involvement in this offence. The drivers from whom the forged receipts were recovered are already granted bail. The investigating agency does not show any connection of these forged bills with the present applicants. In this view of the matter, the applicants are entitled for protection of anticipatory bail, though they will have to co-operate with the investigating agency. Hence, the following order.

ORDER

1. In the event of their arrest in connection with C.R. No.I-503/2018 registered with Solapur Taluka Police Station, District Solapur, the Applicants are directed to be released on bail 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. The applicants shall attend the concerned police station as and when called and shall co-operate with the investigation.
3. All the Applications stands disposed of accordingly.

(SARANG V. KOTWAL, J.)