

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLIATION NO.117 OF 2019

Mitesh Rameshbhai Dhameliya	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

**WITH
ANTICIPATORY BAIL APPLIATION NO.1763 OF 2018**

Rajesh Moolchand Rochani	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

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Mr. Sanjiv Kadam i/b. Mr. Shyamrishi Pathak, Advocate for the Applicant in ABA 117 of 2019.

Mr. A.P. Mundargi, Senior Advocate i/b. Mr. S.P. Borade, Advocate for the Applicant in ABA 1763 of 2018.

Mr. A.R. Kapadnis, APP for Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 28, 2019.

P.C.

Applicants in both these applications are apprehending arrest in connection with C.R.No.18 of 2018, registered with Kalachowki Police Station, Mumbai, for the offences punishable under Sections 17(b), 18(a)(i) and 27(c) of Drug and Cosmetic Act, 1940 and under Section 420 read with 34 of Indian Penal Code.

As per speaking to minutes order dt. 20.02.2019, the order is corrected.

2 The case of the prosecution is that the applicant in ABA No.117 of 2019 was employee of the company, namely, Meyer. He had joined the said company on 18th March, 2015, and continued to work till September 2018. First Information Report ("FIR", for short) was lodged on 2nd February, 2018, by Drug Inspector, Food and Drugs Administration. Information was received by the complainant from Meyer Organic Private Limited that duplicate medicines in the name of Calcimax 500 are being sold by Kailash Pharma Distributors and Life Care Chemist. On visit to Kailash Pharma Distributors found that one Dilip Rathod and Kantilal Rathod were present in the said shop. 294 strips of Calcimax 500 were found. It was also noticed that the said medicines were duplicate. Panchanama of seizure was recorded on 2nd February, 2018. During the course of inquiry, the aforesaid persons stated that drugs were purchased from Bittu @ Viral Chandresh Shah, Gujarat vide Bill dated 4th December, 2017 and stock was received through Samrudhi Trading, Surat.

3 Learned counsel for the applicant in ABA 117 of 2019, submitted that he has been falsely implicated in this case. He is willing to cooperate with the investigation. He is not the supplier of the said medicines. The co-accused Sanjay Rathod was granted anticipatory bail. The other accused are also granted anticipatory bail. Applicant is impleaded on the basis of statement of co-accused. The mode of service of applicant was never deliver any

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goods and he was supposed to take orders and issue of delivery was dealt with by the stockist agency of the company. He is not the manufacturer of drugs. The applicant was in employment of Meyer company and has no concern with activities conducted by the co-accused. Applicant has left the said company and has joined another company.

4 Learned counsel for the applicant in ABA No.1763 of 2018, has however submitted that he is not concerned with the manufacturing or supplying the drugs. It is submitted that the said drugs were supplied by accused Mitesh Dhameliya (applicant in ABA 117 of 2019). It is submitted that the co-accused has been granted bail whose case is on the similar footing. There is recording of conversation between applicant and the co-accused Mitesh Dhameliya, which indicates that he was the supplier of the said medicines to the applicant. It is submitted that custodial interrogation of the applicant is not necessary. The stock is already seized. Applicant has cooperated with the investigation.

5 Learned APP submitted that there is sufficient evidence against the accused showing their involvement in the crime. It is submitted that M/s.Meyer had intimated complainant that M/s.Bhagya Medical Agencies and Akash Medical Stores are not their authorized stockiest. It is submitted that the statements of the witnesses were recorded during the course of investigation, As per speaking to minutes order dt. 20.02.2019, the order is corrected.

which shows the involvement of both the applicants. The source of purchase of the medicines are required to be investigated. It is submitted that the recording submitted by applicant itself indicate that the drugs were supplied to applicant by Mr.Dhameliya

4 The case of the co-accused who were granted anticipatory bail stands on a different footing. The accused are involved in a serious offence. It is pertinent to note that during the course of investigation statements of witnesses were recorded which indicates that the applicant Rajesh Rochani had purchased the medicines from Mitesh Dhameliya and they were sold to Umesh Nasit, which was fortified by the mobile recording. The applicant Mitesh Dhameliya had nexus with Meyor Vitabiotics. The drug is used as Calcium Tablets, which is duplicate and spurious. It is pertinent to note that the purchase of the said medicines itself is suspicious.

5 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application Nos.117 of 2019 and 1763 of 2018, are rejected;
- (ii) Anticipatory Bail Applications stand disposed of.

(PRAKASH D. NAIK, J.)

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