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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 534 OF 2019**

Prashant Dharmadev Singh and othersApplicants

V/s.

The State of MaharashtraRespondent

Mr. S. V. Marwadi h/f Mr. Kailash Tiwari and Sunita Tiwari for the applicants

Smt. J. S. Lohokare APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 1, 2019.

P.C.

In Crime No. 31/2019 registered with Taloja Police Station, Dist. Raigad for offence punishable under Sections 420, 463, 465, 468 of the Indian Penal Code and section 18(c) read with section 27 of Drugs and Cosmetic Act, applicants are seeking pre-arrest bail.

2 The prosecution case against the applicant is Vilda Gliptin tablets by trade name Galvas-50 mg a product of Novartis Health

Care Pvt. Ltd. was procured by the company namely M/s. Medlife International Pvt. Ltd (Hereinafter referred to as “Medlife”) for sale in open market through Jalaram New Media Pvt. Ltd. Shivam Agency and Mehul Agency. Said purchase runs into crores of rupees. The said product purchased by the Medlife of which applicants are directors were meant for sale in retail market at the behest of the applicants.

3 The said drug was in fact meant for Defence Personnel, employees who were beneficiaries under Employment State Insurance Scheme (ESIS), State Government. The said drug was diverted for sale in retail market so as to illegally drawn extra profit. As such, offence in question.

4 Mr. Marwadi, the learned counsel for the applicants in the aforesaid background submits that the registered office of the company namely Medlife is at Bihar and Corporate Office is at Bangalore. The companies having 22 outlets through whom drugs like the present one is made available for retail sale. According to

Shri. Marwadi, entire procurement is accounted and the accounts are made available through representative of the Medlife to the investigating agency and that being so, custodial interrogation of the applicants is not warranted. According to him, applicants, being directors are not responsible for day to day affairs and the necessary ingredients of section under which applicants are booked are not made out. It is claimed that purchase of the drugs is a genuine transaction and that being so, custodial interrogation of the applicants is not warranted.

5 *Per contra*, the learned APP submits that the procurement of the drug by the applicants is not from the authorized distributor. It is claimed that the procurement is with an intention to draw more profit by diverting drugs meant for use of Armed Forces personnel, beneficiaries under ESIS, State Government Employees to open market. According to him, custodial interrogation of the applicants is very much necessary as the applicants who have taken possession, procured drugs, made them available through their 22 outlets and also diverted same in the open market for retail sale.

According to her, custodial interrogation is also necessary to find out the mode and the manner in which the offence is committed. The length of the time for which offence is being committed etc. It is further claimed that application be rejected.

6 Having considered rival submissions, what is noticed is sources viz. Jalaram New Media Pvt. Ltd. Shivam Agency and Mehul Agency from whom the company of the applicants purchased the drug in question were not authorized distributor or C & F agents. Apart from above, the procurement of the drug at much lower prices and making them available in the retail market after erasing the stamp on the tablet pack “meant for defence personnel” “not to be sold in open market” is carried out at the behest of applicants.

7 Even if the accounts are produced for perusal of the investigating agency, the same *prima facie* reflects that applicants have procured drugs at much lower rate and are selling the same in the open market at printed cost with an intention to illegally enrich themselves.

8 The fact that drugs were meant for use of Defence Personnel, beneficiaries under ESIS etc, the availability of drugs to the concerned person at much lower rate having been exempted from the taxes, the fact that applicants were getting substantial profit by taking recourse to illegal means is well within the knowledge of applicants.

9 In the aforesaid background, the very criminal intention of the applicants can be inferred.

10 In the wake of above, no case for bail is made out. Hence, rejected.

[NITIN W. SAMBRE, J.]