

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Bail Application NO. 1691 OF 2019

1. Digvijay @ Vijay Dilip Pandherpatte, & 2. Shahbaz Saadik Patel.	..Applicants
<i>Versus</i>	
The State Of Maharashtra	...Respondent

....
Mr. Tejas Hilage, Advocate for the Applicants.
Smt. Sharmila S. Kaushik, APP, for the Respondent-State.
....

CORAM : SARANG V. KOTWAL, J.

DATE : 18th SEPTEMBER, 2019

P.C.

1. The applicants are seeking their release on bail during pendency of Sessions Case No.23/2017 pending on the file of the learned Additional Sessions Judge, Ratnagiri arising out of C.R. No.47/2015 registered with Devrukh Police Station, District – Ratnagiri. The offence is registered under Sections 26(2)(I), 3(1)(ZZ), 27(3)(E), 26(2)(iv) of the Food Safety and Standards Act, 2006 (hereinafter referred to as ‘FSS Act’) and under Sections 272, 273, 188 & 328 of I.P.C..

2. The FIR was registered on 8.7.2015. The first informant was a Food Safety Officer. According to him, on 7.7.2015 at about 5:20 p.m. the Police Officers had intercepted a Swift Car. Both the applicants were

travelling in that car. There were large number of packets containing Gutka, which was a banned substance under the Order issued under FSS Act. The applicants were arrested. The applicants were released on bail vide order dated 14.7.2015 passed by the J.M.F.C. Ratnagiri. Thereafter the investigation was completed and the matter was committed to the Court of Sessions for trial. On 29.11.2017, the learned Sessions Judge, Ratnagiri posted the trial for further hearing on 18.12.2017 and the accused were directed to remain present. On none of these occasions, since their release on bail, the applicants had attended the Court proceedings. On 29.1.2018, the learned trial Judge issued non-bailable warrants against the applicants because they had not remained present. Pursuant to those NBWs, the applicants were arrested on 2.5.2019 and since then they are in custody.

3. The applicants preferred application for bail vide Exhibit-4 in Sessions Case No.23/2017. This application for bail was rejected by the Additional Sessions Judge, Ratnagiri vide his order dated 13.5.2019. Therefore, the applicants had preferred this application.

4. I have heard Shri Hilage, the learned Counsel for the applicants and Smt. Kaushik, the learned A.P.P. for the State. As can be seen, the applicants were immediately granted bail within a week from their arrest in July, 2015. Subsequently, though it was their duty to attend the Court proceedings diligently, they failed to do so. Shri Hilage

submitted that there was miscommunication between their Lawyer and them. Therefore, they were not aware of pendency of the proceedings and the next dates in the matter. This cannot be a defence for the applicants. They have to follow up their own matter. However, the fact remains that earlier they were granted bail and they were arrested pursuant to the NBWs issued against them. They are in custody since 2.5.2019. The Rozanama shows that their discharge application is pending. Hence there is practically not much progress in the trial. In this view of the matter, I am inclined to grant bail to the applicants. However, it is necessary to impose conditions so that they are available to face the trial. The learned A.P.P. has no objection to adopt this course of action. Hence, the following order:

ORDER

- i. The applicants are directed to be released on bail during pendency of Sessions Case No.23/2017 pending on the file of the learned Additional Sessions Judge, Ratnagiri arising out of C.R. No.47/2015 registered with Devrukh Police Station, District – Ratnagiri, on their furnishing a 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.
- ii. The applicants are directed to attend Devrukh Police Station once in a fortnight till conclusion of the trial.

- iii. The applicants shall attend every single date before the trial Court.
- iv. Any default made by the applicants of any of these conditions shall entail cancellation of this bail order.
- v. The application is disposed of accordingly.

(SARANG V. KOTWAL, J.)