

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2061 OF 2019**

1. Harish Bhim Singh	
2. Pradeep Krishna Bhosale	...Applicants
Versus	
State of Maharashtra	...Respondent

Ms. Anjali Awasthi for the Applicants

Mr. S. S Hulke, A.P.P for the Respondent-State

PSI Mr. K. V. More from Kasarvadavli Police Station, is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 4th OCTOBER 2019

P.C.

1 Heard learned counsel for the parties.

2 By this application, the applicants seek pre-arrest bail in connection with C.R. No. 181 of 2019 registered with the Kasarvadavli Police Station, Thane, for the alleged offences punishable under Sections 407, 408 of the Indian Penal Code.

3 Learned counsel for the applicants states that the applicants are not concerned with the alleged offence and that the applicants have been

falsely implicated in the said case. She submits that co-accused-Tribhuvan Pathak (the driver of the vehicle) from whom the chemicals were allegedly stolen by the applicants, had reason to falsely implicate the applicants, inasmuch as, the applicant No. 2 had lodged a case as against Tribhuvan Pathak in 2009.

4 Learned A.P.P opposed the application. He submits that the statement of the co-accused i.e. Tribhuvan Pathak and Randhir Singh clearly show the complicity of the applicants. He further submits that there are CDRs to shows that the applicant No. 1 had made several calls to co-accused-Tribbuvan Pathak and applicant No. 2 had also made a call to Tribbuvan Pathak. He further states that the applicants were present along with their Manager-Randhir Singh (co-accused) at the spot, from where the chemical was loaded in a truck at Thane. He further states that the applicant No. 1 has five cases registered as against him and the applicant No. 2 has two cases registered against him.

5 Perused the papers. According to the complainant-Sujit Jha, a transporter, he received an order on 24th May 2019 for transporting chemical I.e. C-Indofil 731 from Thane to Mysore. Accordingly, the complainant asked the co-accused-Tribhuvan Pathak to load the said

chemical in truck bearing No. MH 04 JR 7969 from Thane for delivering the same to Mysore. After the said truck was loaded, the complainant gave money to co-accused-Tribhuvan Pathak (the driver), for payment of toll tax and for filling diesel in the said truck. The complainant had installed GPS link for ascertaining the location of the truck. Accordingly, co-accused-Pathak left with the truck from Thane to Mysore on 28th May 2019 and reached Mysore on 2nd June 2019. The consignment was to be delivered to Asian Paints Company. It appears that the chemical could not be delivered on 2nd June 2019, as there was a strike in the said company. On 3rd June 2019 at about 10:30 a.m, co-accused-Tribhuvan Pathak informed the complainant that he would unload the chemical at Asian Paint Company. It appears that before the delivery was made, the Company asked for a sample. When Tribhuvan Pathak provided the sample to the Company, the same was not approved, as the Company found that the said chemical was mixed with water and as such refused to accept the delivery. It appears that pursuant thereto, co-accused-Tribhuvan Pathak left the truck loaded with the chemical at Mysore and did not communicate with the complainant thereafter.

6 Accordingly, a complaint was lodged as against Tribhuvan Pathak. After the arrest of Tribhuvan Pathak, it was revealed that the

applicants along with their Manager-Randhir Singh had gone and transferred 15 tonnes of chemical from the said truck and had paid Rs. 5,00,000/- to Tribhuvan Pathak. There are CDRs to show that the applicants were in touch with Tribhuvan Pathak. The applicant's Manager-Randhir Singh was also arrested. During interrogation, Randhir Singh revealed that the applicants were in the business of illegal sale of chemicals, after committing theft of chemicals. The statements of both these accused clearly show the complicity of the applicants. The applicant No. 1 has five cases registered as against him i.e. C.R. Nos. 73/2007, 12/2007, 310/2005, 210/2012 and 181/2019. The applicant No.2 has two antecedents i.e. C. R. Nos. 79/2009 and 181/2019.

7 In the facts, custody of the applicants is warranted to find out the *modus operandi* and where the said chemical was sold by the applicants.

8 Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. Application is accordingly rejected.

9 It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application and if an application for

regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.