

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (BA) No. 625 of 2019

Shaikh Abrar and Another
Vs.
State through P.S. MIDC, Akola City

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.S.A. Mohta, Advocate for applicants.
Mr. N.R. Rode, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 18, 2019

The applicants herein have approached this Court for grant of bail as they stood arrested on 29/06/2019, in connection with an FIR registered on the same day for offences under Sections 188, 272, 273, 328 R/w 34 of the Indian Penal Code and various provisions of the Food Safety and Standard Act, 2006.

2. The allegation against the applicants is that when a godown was raided, *panmasala* worth about Rs.13,50,000/- was found in the presence of the applicants and that since the said contraband material is prohibited in the State of Maharashtra, the said offences were registered against them.

3. It is the case of the applicants that they were merely workers in the godown and that, therefore, they

could not be held responsible for the contraband material. Apart from this, it was contended that Section 328 of the Indian Penal Code was not at all applicable in the present case and in this context, the learned counsel for the applicants has placed reliance in the case of **Joseph Kurian Philip Jose Vs. State of Kerla (1994) 6 Supreme Court Cases 535**. It was further contended that since the contraband material was already seized, there is no necessity to keep the applicants behind bars, as they are ready to co-operate with the investigation.

4. The learned APP has opposed grant of bail in the present case pointing out that the contraband material worth Rs.13,50,000/- was seized and that the applicants were responsible for dealing with such material, which was banned in the State of Maharashtra. The reply handed over by the learned APP is taken on record.

5. The material on record shows that the applicants are behind bars since 29/06/2019. While the seizure of the contraband material indicates that the applicants may have committed offences under the provisions of the Food Safety and Standard Act, 2006, as also some provisions of the IPC, the ingredients of the offence under Section 328 of the IPC do not appear to be prima facie present. Even if the material on record and the allegation made against the applicants

is to be taken on face value, at this stage, it would be difficult to accept that the applicants had indeed committed offence under Section 328 of the Indian Penal Code. Considering the fact that all other offences alleged against the applicants are relatively minor in nature, the applicants are entitled to grant of conditional bail.

6. In view of the above, this Court is of the opinion that the above application deserves to be allowed. Accordingly, application is allowed and the applicants are directed to be released on bail on the following conditions :

- a) The applicants shall furnish PR bond of Rs.50,000/- each and surety in the like amount.
- b) The applicants shall attend Police Station MIDC, Akola City once in a week i.e. on Sunday between 10:00 AM to 5:00 PM, till filing of charge-sheet.
- c) The applicants shall attend the proceedings before the Trial Court.
- d) The applicants shall co-operate with the investigation.
- e) They shall not tamper with the evidence or influence the witnesses.

7. Application is allowed in above terms.
Hamdast is granted.

8. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicant.

JUDGE

MP Deshpande