

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 741 OF 2020

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Buntty Sunil Tanwani

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Applicant

Vs.

The State of Maharashtra

..

Respondent

...

Mr. Monish Bhatia for the Applicant.

Ms. P.P. Shinde, A.P.P. for the State.

...

CORAM: SMT. BHARATI DANGRE, J.

DATED : 16TH OCTOBER, 2020.P.C:-

1. The Applicant seeks his release in anticipation of arrest in C.R. No.1-247 of 2020 initially registered with the Dombivli Police Station and subsequently transferred to Manpada Police Station. The C.R. invokes Sections 3, 25 of the Indian Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

2. The information was lodged by Police Naik attached to the Dombivli Police Station on 21/08/2020. A tip was received by him that on 21/08/2020 one person is likely to arrive at Naka No.1, Dombivli (East) for sale of firearm. A trap was laid and the said

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person was cornered on the given location. He disclosed his name as Narendra Kaushal, a resident of Indore, Madhya Pradesh. When the bag hanging from his shoulder was searched, a country made pistol was found and it was seized. The price of the said pistol was estimated to be Rs.10,000/-. He divulged that he had brought the said firearm from Bhopal to be delivered to one person by name Bunty. The offence was thus registered against him under Sections 3 and 25 of the Indian Arms Act.

3. On the basis of the information received from Accused - Narendra Kaushal, the Applicant was issued a notice under Section 41A of the Cr.P.C. He approached the Sessions Judge, Kalyan and his application came to be rejected on 20/09/2020. On reading the said order, it appears that the learned Sessions Judge had referred to the involvement of the Applicant and it is recorded in the order that the arrested Accused - Narendra Kaushal was found in possession of the country made revolver, which he acquired from the present Applicant and, therefore, his custodial interrogation is very much necessary whereas, the case as contained in the FIR is that Accused - Narendra Kaushal has brought the country made pistol to be delivered to Bunty who has been identified to be Bunty Sunil Tanwani i.e. the present Applicant on the basis of his CDRs. There are 11 calls exchanged between the two persons between 10/08/2020 to 20/08/2020. The case of the prosecution is wrongly assumed by the learned Sessions Judge to the effect that Accused - Narendra Kaushal had acquired the revolver from the present Applicant and his Bail Application was rejected.

4. However, as per the complaint filed by the Police Naik, the case is otherwise and Accused - Narendra Kaushal was carrying a country made pistol to be delivered to Bunty. Since the Applicant was not found in possession of the firearm/weapon, which is the necessary requirement of Sections 3 and 25 of the Indian Arms Act, 1959, he needs to be protected against his arrest subject to his co-operating with the Investigating Officer by reporting to the Manpada Police Station as and when directed by the Investigating Officer. Hence, the following order:

ORDER

- (a) In the event of arrest, the Applicant – Bunty Sunil Tanwani shall be released on bail in C.R. No.1-247 registered with Dombivli Police Station and subsequently transferred to Manpada Police Station, District Thane on executing P.R. bond to the extent of Rs.15,000/- and furnishing one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

- (c) The Applicant shall co-operate with the investigation and attend to the Police Station as and when required by the Investigating Officer.

5. The Application is allowed in the aforestated terms.

6. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

SMT. BHARATI DANGRE, J.