

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2130 OF 2019

Rajkumar Bapurao Shinde

Applicant

versus

The State of Maharashtra

Respondent

Mr.Ujwal R. Agandsurve for applicant.

Smt.A.A.Takalkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 31st January 2020

PC :

1. The applicant is seeking anticipatory bail in connection with CR No.564 of 2019 registered with Vijapur Naka Police Station, Solapur under Sections 103, 104 and 105 of Trademarks Act, 1999. The FIR is lodged on 22nd August 2019.

2. The FIR is lodged by complainant Smt.Mamta Pawan Khatri. According to her, she is producing food item “Kurkure” in the name of Tirupati Food Products. She has a shop license for the same and that her trademark is named as “Jimboy” and trademark logo is picture of one cartoon. The logo and name are registered under the Trademarks Act, 1999 on 17th February 2014. The allegations in the FIR against the applicant-accused are that the applicant is also producing Kurkure in the name of Samarth Food Product and using the name “Jaadu” instead of “Jimboy” on his cartoon, thereby using the same Trademark of the complainant and as such has infringed the right of the complainant to exclusively use that trademark. According to the respondent, therefore, the offences are committed

by the applicant-accused punishable under Sections 103, 104 and 105 of Trademarks Act, 1999.

3. Learned counsel for applicant submitted that the cartoon with which the complainant claims to be her logo cannot be her exclusive trademark because it is a commonly available art work. He submitted that there was correspondence between the parties and it essentially indicates a civil dispute. No offence is committed by the applicant. Learned counsel, on instructions, submitted that the applicant has stopped using the cartoon and logo “Jimboy”.

4. The applicant was granted interim protection vide order dated 1st October 2019. Considering the controversy, custodial interrogation of the applicant is not necessary. The applicant can be directed to co-operate with the investigation. Hence, I pass following order :

ORDER

- (i) Criminal Anticipatory Bail Application No.2130 of 2019 is allowed and disposed of;
- (ii) Interim order dated 1st October 2019 is confirmed;
- (iii) In the event of arrest of applicant in connection with “CR No.564 of 2019 registered with Vijapur Naka Police Station, Solapur, the applicant is directed to be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iv) The applicant shall attend Vijapur Naka Police Station, Solapur on 10th, 11th and 12th February 2020 between 11 am and 1 pm, and thereafter as and when called till filing of charge sheet;

(v) The applicant shall not use the cartoon and logo “Jimboy in future.

(PRAKASH D. NAIK, J.)

MST