

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 509 OF 2021

Abhishek s/o. Suresh Belhekar .. APPLICANT

VERSUS

The State of Maharashtra .. RESPONDENT

...

Mr.N.B.Narwade, Advocate for the applicant.

Mr.S.B.Narwade, APP for the respondent-State.

...

AND

ANTICIPATORY BAIL APPLICATION NO. 331 OF 2021

Rakhi w/o. Santosh Totala .. APPLICANT

VERSUS

The State of Maharashtra .. RESPONDENT

...

Mr.N.T.Tribhuwan, Advocate for the applicant.

Mr.S.B.Narwade, APP for the respondent-State.

...

AND

BAIL APPLICATION NO. 489 OF 2021

Santosh s/o. Sudamrao Dhondage .. APPLICANT

VERSUS

The State of Maharashtra .. RESPONDENT

...

Mr.R.R.Karpe, Advocate for the applicant.

Mr.V.M.Kagne, APP for the respondent-State.

...

CORAM: MANGESH S. PATIL, J.

DATE : 15.06.2021

P.C.

1] These are separate applications by the three accused involved in Crime No.95 of 2021, registered with Kranti Chowk Police Station, Aurangabad, for the offences punishable under Sections 468, 420, 274, 276, 461 r/w. 34 of the Indian Penal Code seeking bail / anticipatory bail as the case may be.

2] The FIR has been lodged by a Drug Inspector, Aurangabad alleging that on 6th January 2021 when he carried out inspection of the shop owned by the applicant – Rakhi Totala he found some adulterated drug, which was styled as ‘Hand sanitizer’. It transpired that she had purchased these from the applicant – Abhishek, who, in turn, had received it under some agreement from the manufacturer who happens to be the main accused – applicant – Santosh. During investigation, it transpired that the drug that was being sold, was in fact misbranded and accordingly it is a case of forgery and cheating. Pursuant to the investigation, the charge sheet has been filed for the above mentioned offences against the

applicant Santosh showing the other two applicants as absconding. Santosh is now seeking regular bail whereas the other two applicants are seeking anticipatory bail.

3] For whatever reason, though the complaint was lodged by a Drug Inspector, who had come to a conclusion that there was some violation of the provisions of the Drugs and Cosmetics Act, 1940, for the reasons best known to the Investigating Officer, he conducted investigation and reached to a conclusion that the offence as has been committed is under various provisions of the Indian Penal Code mentioned herein above. The provisions of the Drugs and Cosmetics Act have been ignored / omitted while submitting the charge sheet.

4] Be that as it may, applicant Santosh has been arrested on 13th April 2021 and now even charge sheet has been filed against him. The trial is not likely to get over in the near future and considering the offences being charged against him, he deserves to be released on regular bail.

5] As far as the other two applicants – Rakhi Santosh Totala and Abhishek Suresh Belhekar are concerned, going by the allegations, Abhishek had agreed to purchase and Santosh had agreed to supply the drug manufactured by the latter. In spite of careful perusal of the charge sheet filed against Santosh, no material is revealed to draw any inference about

Santosh having manufactured spurious / misbranded drug in collusion with the applicant – Abhishek.

6] Though there are allegations about he having obtained registration under the GST, a Manufacturing Unit, the allegations are about Santosh having supplied the misbranded drugs to Abhishek, who, in turn, had sold it to the applicant – Rakhi.

7] Again though there is some material to suggest that Abhishek had obtained this registration under the GST by providing incorrect information, that would be all together a different matter, unconnected with the allegations regarding manufacturing of the misbranded drug for which Santosh is now being charged for forgery and cheating.

8] So far as applicant – Rakhi is concerned, her case stands on still better footing. She seems to be a retailer who had procured the misbranded drug from applicant Abhishek. There is no material to draw any inference about she having acted hands in glove with the two others, Abhishek and Santosh.

9] Considering all the above state of affairs, all the three applications deserve to be allowed.

10] Anticipatory Bail Application No. 509 of 2021 and Anticipatory Bail Application No.331 of 2021 are allowed. In the event of arrest of the applicants – Abhishek Suresh Belhekar and Rakhi Santosh Totala in connection with Crime No.95 of 2021, registered with Kranti Chowk Police Station, Aurangabad, for the offences punishable under Sections 468, 420, 274, 276, 461 r/w. 34 of the Indian Penal Code, they shall be released on bail on their executing personal recognizance for an amount of Rs.15,000/- [Rs. Fifteen Thousand only] each and furnishing a solvent surety in the like amount each, subject to following conditions:

- (a) They shall attend the concerned Police Station as and when called by the Investigating Officer and shall co-operate him.
- (b) They shall not tamper the evidence or influence the witnesses.

11] Bail Application No. 489 of 2021 is allowed. Applicant – Santosh Sudamrao Dhondage shall be released on bail on his executing personal recognizance for an amount of Rs.15,000/- [Rs. Fifteen Thousand only] and furnishing a solvent surety in the like amount. Bail before the trial Court.

[MANGESH S. PATIL, J.]