

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

909 ANTICIPATORY BAIL APPLICATION NO.1184 OF 2021

SAVANKUMAR CHANBASAPPA DHANGAPURE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. P.D. Kale and Mr. R.R. Paramane, Advocates for the applicant.
Mr. A.S. Shinde, A.P.P. for respondent - State.

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CORAM : **PRAKASH D. NAIK, J.**

DATE : 07-12-2021

ORDER :

1. The applicant is apprehending arrest in Crime No.259/2018 registered with Chikalthana Police Station, District Aurangabad for the offences punishable under Sections 3 and 7 of the Essential Commodities Act.

2. The First Information Report (for short "F.I.R.") was registered on 23rd July 2018 at the instance of Police Sub Inspector attached to aforesaid police station alleging that on 18th July 2018 while on patrolling duty the police received secret information that truck bearing registration No. MH-18-AA-6879 is proceeding from Beed to Aurangabad carrying rice made for rationing shop. On receiving such information, police called panchas to conduct the raid. At about 10.00 p.m. the truck was intercepted at Nipani Phata by police. On inspection it was found containing bags of rice. Inquiry was made with the truck driver. He informed that the truck belongs

to Yogesh Bhaskar Patil. He also informed that the truck was loaded with rice bags at Shahapur Market, Shahapur, Karnataka by unknown person and he was proceeding towards Dhule. He also produced copy of bill issued in the name of Tanveer Enterprises, Plot No. 15, Patil Complex, Rajendra Gunjraichur, Karnataka. The panchnama was prepared and rice was seized on 19th July 2018. Letter was forwarded to Tahsildar, Aurangabad for inspection of the seized rice and for giving opinion as to whether the rice belongs to public distribution system. On 20th July 2018, the Deputy Tahasildar, Aurangabad inspected the seized truck and rice at the police station and submitted report to the office of Tahsildar. Vide letter dated 22nd July 2018 it was informed that they are not in position to give any opinion about the seized rice and asked the police to enquire and initiate appropriate action. On 22nd July 2018, Investigating Officer called the office of Deputy Tahsildar, Supply Department, Aurangabad and requested for opinion. On the same day another inspection was carried out by Deputy Tahsildar, Supply Department where the rice was unloaded by police. Another letter was issued vide Outward No. 18/supply/Kawi-19 thereby informing that the seized bags of rice are suspected to be from rationing shop. On receiving such report from the office of Tahsildar, F.I.R. was lodged on 23rd July 2018. Driver and owner of the truck were arrested. During the course of investigation they were granted bail. On completing investigation, charge-sheet was filed against them. The applicant was shown to be wanted accused in the said crime.

Separate charge-sheet under Section 299 of the Code of Criminal Procedure (for short "Cr.P.C.") was filed against the applicant.

3. The applicant had preferred application for anticipatory bail before the Sessions Court which has been rejected by order dated 21st September 2021.

4. Learned Counsel for the applicant submitted that the applicant has been falsely implicated in this case. He was not named in the F.I.R. Only on the basis of surmises while filing the charge-sheet against the co-accused, he was shown wanted in the case. The charge-sheet is filed against the applicant under Section 299 of Cr.P.C. Tahsildar, on making detailed investigation, seized the rice at police station on 20th July 2018 and informed that it cannot be ascertained that the rice seized is from public distribution system. However, on 22nd July 2018, another panchnama was conducted wherein the rice was unloaded and report was given that some quantity of the rice belongs to public distribution system. It creates suspicion. F.I.R. itself mentions that the rice was brought from Karnataka. The applicant has no connection with the said rice. In these circumstances, custodial interrogation of the application is not necessary.

5. Learned A.P.P. submitted that the involvement of the applicant was disclosed during the course of investigation. He is not available for investigation. Charge-sheet is filed against the co accused after they were granted bail. Custodial interrogation of the

applicant is necessary. Source of rice is required to be ascertained for which applicant needs to be interrogated.

6. F.I.R. was registered on 23rd July 2018. The applicant is not named in F.I.R. The case of the prosecution is that on information the vehicle containing rice was intercepted and it was found to be containing 420 bags of rice. Initially report was called from the concerned authority, however, it could not be ascertained whether the rice is from the public distribution system. Subsequently it was disclosed on inspection and on executing subsequent panchanama that part of the rice belongs to public distribution system. The co-accused, who is the owner of truck and truck driver, have been arrested. Investigation is completed. Charge-sheet has been filed. The F.I.R. itself indicates that the rice was brought from Karnataka. Investigation does not reveal link of the applicant with the source of rice. There is no incriminating evidence to show that rice was meant for public distribution system. In these circumstances, applicant need not be subjected to custodial interrogation. Hence, I pass the following order.

ORDER

- (i) ABA No. 1184 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in Crime No.259/2018 registered with Chikalthana Police Station, District Aurangabad, the applicant be released on bail on executing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.

- (iii) The applicant shall report the Investigating Officer on 15.12.2021, 16.12.2021 and 17.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.
- (iv) The application stands disposed of.

(PRAKASH D. NAIK, J.)

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