

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1688 OF 2021

Prashant Chandley

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Niranjan Mundargi a/w Keral Mehta, for the applicant.
Mr. S.S. Pednekar, APP for the State/Respondent.

CORAM: SARANG V. KOTWAL, J.
DATE : 26th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 423 of 2020 registered at Sheel Daighar Police Station, Thane on 14/10/2020 under sections 420, 426, 427, 436, 182 read with Section 34 of the Indian Penal Code.

2. The prosecution story is that, the applicant had taken a godown on lease. The applicant had stored 259.150 metric tons of Soyabean belonging to M/s Stature

Retail Private Company. In the godown he had also kept 148.280 metric ton toor belonging to ED and F Man Commodities India Private Limited. The soyabean was worth Rs. 1,04,71,224/- and other toor was worth Rs. 80,59,759/-. On 26/08/2020 at about 11.30 p.m. there was fire in that godown causing extensive damage to these goods. The applicant himself gave information to the police station for which a separate complaint was registered at Sheel Daighar. Police Station.

3. Officers of both the above companies visited the warehouse. They carried out their own survey and it is their case that some damaged goods were found in the godown. They were damaged because of the water used in dousing the fire. But some goods were misappropriated by the applicant as the goods were not found in the form of ash in the godown. The quantity of ash was quite less. The allegations are that he had misappropriated about 81.780 metric tons of goods worth about Rs. 33,04,278.20/- and also 148.280 metric

ton of toor worth about Rs. 80,59,759.40/-. The allegations are that he had committed misappropriation of goods worth Rs.01,13,64,037/- The FIR was lodged by one Ankit Sisodia working with M/s Stature Retail Private Company.

4. The applicant was arrested on 03/11/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

5. Heard Mr. Niranjana Mundargi, learned counsel for the applicant and Mr. S.S. Pednekar, learned APP for the State.

6. Shri Mundargi, learned Counsel for the applicant submitted that the allegations against the present applicant are vague. There is nothing to show that the applicant had played any part in causing fire to his own godown. He submitted that the allegations are baseless and are based on survey which is extremely

doubtful. He further submitted that there is no other material connecting the present applicant with the alleged offence.

7. Learned APP submitted that the investigation shows that there was no short circuit and according to the inquiry conducted, fire had occurred because of human intervention. The applicant had misled the investigation by claiming that there was short circuit. He submitted that there is statement of petrol pump owner showing that the applicant had purchased 100 liters of diesel and there is no explanation offered by the applicant.

8. I have considered these submissions. Apart from the first informant, who was connected with M/s Stature Retail Private Company, there is a statement of Mr Sunil Daswant connected with ED and F man Commodities India Pvt Ltd. Both of them have stated that they had deposited their goods with the godown of the applicant in May 2020. The incident had taken place

in the night of 26/08/2020. There is absolutely no material in the entire charge-sheet to show that before the fire broke out the applicant had removed any goods from the godown. The allegations are about large quantity of the goods and yet the investigation did not reveal transportation of such goods outside the godown. There is nothing to show that those goods were sold by the applicant to any third party.

9. Similarly there is nothing to show that the applicant had played any part in causing fire to his own godown. There is a statement recorded under section 27 of the Indian Evidence Act wherein the applicant had shown willingness to point out the vehicle which was used in the offence. However, said recovery is not really connected with the offence.

10. There is a statement of petrol pump owner. Said witness is Amarjit Harbhjan Singh. He has stated that the applicant had purchased 100 litres diesel from his

petrol pump. He has not given details of it. Similarly he does not have CCTV footage in that behalf. Interestingly statement of this witness was recorded on 09/11/2020 after arrest of the applicant on 03/11/2020. Even in his statement it is mentioned that police themselves had brought the applicant to his petrol pump and they had introduced the applicant to this witness. Such kind of evidence can hardly have any importance. Police themselves had introduced the applicant to this petrol pump owner and they had given information. There is no corresponding memorandum statement given by the present applicant. Therefore, this piece of evidence cannot be held against the present applicant.

11. There is a statement of one Mohammed Kayum Munir Khan who has spoken about the fire in the godown. He has stated that he was on duty till 8.00 p.m. and thereafter watchman Daud Khan had came. This witness had left the place. Surprisingly statement of that witness Daud Khan does not find place in the charge-sheet.

12. In this view of the matter, for lack of evidence against the present applicant, the prosecution case suggesting the involvement of the applicant is very weak. The investigation is over. The applicant was arrested on 03/11/2020. Reasonable doubt is created against the prosecution case. Hence the applicant deserves to be released on bail.

13. Hence the following order.

ORDER

- (i) In connection with C.R. No. 423 of 2020 registered with Sheel Daighar Police Station, Thane, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)