

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

**CRI. ANTICIPATORY BAIL APPLICATION NO. 2109 OF 2019
WITH
CRI. ANTICIPATORY BAIL APPLICATION NO. 2335 OF 2019**

Sachin Purshottam Baldwa	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr. Kuldeep S. Patil a/w. Mr. Shashank P. Borade, for the Applicant.
Mr. R. M. Pethe, APP for the Respondent / State.

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**CORAM : C.V. BHADANG, J.
DATE : 24 NOVEMBER 2021**

P.C.

. By these Applications, the Applicant is seeking pre-arrest bail in connection with investigation of Crime No.30/2019 of Police Station Sanpada (Turbhe) and Crime No.44/2019 of Police Station Byculla. Both these offences are registered under Section 420, 463 and 468 of IPC and Section 18(c), 18(a)(iv), 18-B of the Drugs and Cosmetics Act 1940 read with Rules framed thereunder.

2. It appears that there is a third similar offence which was registered against the Applicant and others at Police Station Taloja vide Crime No.31/2019. It is undisputed that the Applicant was

arrested in the said crime of Police Station Taloja and has been released on regular bail. It is also not disputed that the chargesheet is filed in respect of the offence at Police Station Taloja and Police Station Sanpada (Turbhe). It may be mentioned that although these offences were registered with three separate police stations, all of them are presently being investigated and dealt with by the Crime Branch. The allegation is that the co-accused Mahesh Nagansure and Sachin Vadaskar who are the proprietors of *Shri Samarth Distributors* Sanpada Mumbai had procured various medicines including Galvus 50 mg tablets, which were for supply to the armed forces / government hospitals. It is alleged that the Applicant and the co-accused, after scoring out the label 'institutional supply, not for sale' and 'defence supply, not for sale' had sold the drugs in open market.

3. I have heard the learned counsel for the Applicant and the learned APP. Perused record and the case diary.

4. It is submitted by the learned counsel for the Applicant that none of the drugs are found to be spurious. He pointed out that the only allegation is that these drugs were not for sale in the open market and after scoring out the concerned labels, these drugs were being sold in the open market. He pointed out that the Applicant and the others were arrested in the offence at Taloja and were taken

to Delhi in order to find out the source about the procurement of the drugs. It is submitted that multiple offences have been registered in respect of the same allegation. He submitted that only because the drugs were allegedly sold to different entities at different places, separate offences cannot be registered. It is submitted that once the investigation is complete in respect of the offences registered with Police Station Taloja and Police Station Sanpada, no further investigation need to be carried out in respect of these offences requiring the custodial interrogation of the Applicant particularly, when it is the same Investigating Agency i.e. the Crime Branch which is investigating the offence.

5. Learned APP has submitted that during the course of investigation it is found that the Applicant was the person who was handling all the transactions and was controlling the working of *Shri. Samarth Distributors*. He submitted that there is material to show that the labels were scored out at the instance of the present Applicant and the other accused. He submitted that different batch of drugs which were for institutional supply to armed forces / government hospitals were procured and have been sold to different entities at different places. He therefore submitted that the nature of the investigation will be distinct. Learned APP pointed out that this Court has rejected anticipatory bail applications of the co-accused Sanjay Garg by order dated 17 September 2021 in ABA

No.1058/2019 and 1150/2019. He pointed out that this Court has found that looking to the nature of the allegations, custodial interrogation is necessary. He therefore submitted that considering the role of the Applicant, custodial interrogation is necessary for proper investigation of the offence which is serious in nature.

6. Learned counsel for the Applicant has submitted that the role of the co-accused Sanjay Garg is distinguishable and the present Applicant is not concerned with the sale of drugs in the open market.

7. I have given my anxious consideration to the rival circumstances and the submissions made. Although it is not in dispute that none of the drugs recovered or which are subject matter of the offence are spurious, the fact remains that according to the prosecution, various drugs which were for the controlled supply to armed forces and government hospitals have been sold in open market after scoring out the labels. Learned APP had produced the case diary and I have gone through the same. As the investigation is not complete in the offence at Byculla Police Station, it would not be appropriate to set out the contents of the case diary. However, suffice it to mention that prima facie, the Investigating Officer appears to have collected material from the employees working with *Shri. Samarth Distributors* when the drugs were procured and were

sold in the market after scoring out the labels at the instance of the Applicant and the co-accused. This Court in the order dated 17 September 2021 has noted that different batch of drugs are alleged to have been procured and sold in open market to different entities and at different places and therefore prima facie, in my considered view, the fact that the Applicant was arrested in one of the offence initially registered at Taloja Police Station and the conclusion of the investigation in the said offence may not be sufficient to grant protection. The nature of the allegation would require custodial interrogation in order to find out the source as well as the entities where the drugs were sold in open market. Although there are no allegations that the drugs were spurious, learned APP pointed out that the sale would be in breach of the licence granted to *Shri. Samarth Distributors* as Druggist and Chemists. He also pointed out that there are various offences under IPC. In my considered view, proper investigation of the offence is paramount consideration at this stage and considering the nature of the offence and the allegations made, the custodial interrogation of the Applicant would be necessary. It is necessary to note that the investigation in the offence at Police Station Byculla is not complete as yet. In the result, the Criminal Applications are dismissed. Needless to mention that the interim protection stands vacated.

8. At this stage, the learned counsel for the Applicant states that there is a marriage scheduled in the family of the Applicant on 11 December 2021. He therefore, seeks time to surrender till 15 December 2021.

9. I have heard the learned counsel for the Applicant and the learned APP.

10. In this case, the interim protection was operating from 2019. In such circumstances, the Applicant is granted time till 15 December 2021 to surrender before the Investigating Officer. The Applicant shall intimate to the Investigating Officer, the place and the address where the Applicant would be visiting during the said period.

C.V. BHADANG, J.