

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 ANTICIPATORY BAIL APPLICATION NO.82 OF 2022

VINAYAK GULABRAO RATHOD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Salunke S. J.
APP for Respondent-State : Mr. V. M. Kagne

...
WITH ABA/83/2022

GANGADHAR S/O RAMBHAU SARODE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Salunke S.J.
APP for Respondent-State : Mr. V. M. Kagne

...
CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 20-01-2022

PER COURT :

1. Learned Advocate for the Applicant prays for leave to delete ground No.7 in ABA No.82 of 2022.
2. Leave is granted to delete ground No.7 in ABA No.82 of 2022.
3. Heard learned Advocate for the applicants and learned APP.
4. Learned APP is strongly opposing the applications on the ground that there were complaints those were received by the police from one Megha Engineering and Infrastructure Limited, Hyderabad State Telangana, who had undertaken the construction work of 'Samruddhi

Mahamarg'. They had their store department by the side of the road which supplies diesel to their vehicles. It was found by the company that some unknown persons were stealing the diesel from the vehicles of the company which they had taken on rent. The informant who is the employee of Megha Engineering could find one vehicle bearing No.MH-21/C-2007 taking out the diesel in a can and it was chased, whereupon the vehicle went near the patrolling party of the police, but thereafter, the driver of the vehicle fled away by leaving that vehicle on the spot. There were 20 plastic cans in the car having 35 liters of diesel and there were five cans which were empty. So there appears to be a direct evidence in the case, and therefore, the physical custody of the applicants would be necessary.

5. Interesting point to be noted is that the applicant in ABA No.82 of 2022 comes with a case that he was the owner of the said vehicle but he has sold it to the applicant in ABA No.83 of 2022. Applicant in ABA No.83 of 2022 is accepting this fact and both of them have produced the transfer forms. The fact remains is that the vehicle appears to remain in the name of the applicant in ABA No.82 of 2022 on 27-10-2021, but it was not transferred in the name of applicant in ABA No.83 OF 2022. But then since the applicant in

ABA No.83 of 2022 is accepting that he had purchased the said vehicle on 16-07-2021, it can be inferred that on 27-10-2021 he would be having possession of that vehicle. Under such circumstances, his custody would be required for the purpose of investigation. While submitting the submissions, a receipt issued by M/s Prashant Petroleums, Pandharpur, District Aurangabad has been shown and which has been taken on record which states that 1000 litres of diesel/petrol was supplied to MH-21/C-2007 on 27-10-2021 amounting to Rs.1,05,610/-. This appears to be a concocted document. Definitely when it is tried to be relied on by the applicant in ABA No.83 of 2022, to state that that much of diesel was purchased for the agricultural operations, but taking into consideration the quantity and also the fact that it would have been (if it is to be believed) sold in loose i.e. retail, not in the diesel tank of the vehicle, no case is made out to grant any kind of relief to the applicant in ABA No.83 of 2022. His application stands rejected at the threshold.

6. Learned APP to take note of the receipt and inform accordingly to the Investigating Officer for further action to be taken, if any.

7. As regards the applicant in ABA No.82 of 2022 is concerned,

he needs protection till the next date in view of the fact that he had already sold the vehicle on 16-07-2021 i.e. prior to the date of offence. Hence, following order.

ORDER

- 1) Issue notice to the respondents in both the applications, returnable on 08-02-2022.
- 2) Learned APP waives notice to respondent-State.
- 3) In the meantime, in the event of arrest of applicant Vinayak s/o Gulabrao Rathod in ABA No.82 of 2022, in connection with Crime No.406 of 2021, registered with Karmad Police Station, District Aurangabad, for the offence punishable under Section 379 of the Indian Penal Code, he be released on P.R. of Rs.30,000/- each (thirty thousand) and S.B. of Rs.15,000/- each (fifteen thousand).
- 4) The applicant Vinayak shall not indulge in any criminal activity nor he shall tamper with the evidence of the prosecution.
- 5) Applicant Vinayak s/o Gulabrao Rathod to attend the Karmad Police Station, District Aurangabad, on every Sunday in between 10.00 a.m. to 01.00 p.m., and co-operate with the investigation.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.