

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

ANTICIPATORY BAIL APPLICATION NO.325 OF 2022

- 1) Govind S/o Ramdas Madrewar,
- 2) Amer Sohel S/o Mukhtar Shaikh
- 3) Santosh S/o Uttamrao Bidwai,
- 4) Ishwar @ Abhishek S/o Dilip Birajdar

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.P.P. More Advocate for Applicants.
Mr.B.V. Virdhe, A.P.P. for Respondent-State.

...

WITH

ANTICIPATORY BAIL APPLICATION NO.266 OF 2022

Sattar S/o Saheblal Shaikh

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Suhas P. Urgunde Advocate for Applicant.
Mr.B.V. Virdhe, A.P.P. for Respondent-State.

...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 24th MARCH, 2022

ORDER :

1. Applicants in both the Applications are apprehending their arrest in connection with Crime No.36 of 2022 registered with MIDC Police Station, Latur, District-Latur for the offence punishable under Sections 454, 457, 380, 328 read with Section 34 of the Indian Penal Code.

2. Heard learned Advocate Mr. More for the applicants in Anticipatory Bail Application No.325 of 2022, learned Advocate Mr. Urgunde for applicant in Anticipatory Bail Application No.266 of 2022, and learned APP Mr. Virdhe for the respondent – State. In order to cut-short, it can be stated that both the sides have made submissions in support of their respective contentions.

3. It is to be noted that the offence has been registered against 13 persons on the First Information Report (for short “FIR”) given by Head Constable attached to MIDC Police Station, Latur, namely, Mr. Vijaykumar Limbraj Bawane. He has stated

that on the basis of FIR lodged by Food Safety Officer, Latur, Mr. Vitthal Satwaji Londhe on 10th October 2021, offence was registered vide Crime No.635 of 2021 for the offence punishable under Sections 188, 272, 273, 328 read with Section 34 of the Indian Penal Code and Section 59 of the Food Safety and Standards Act. The contraband articles seized in the said matter were worth Rs.84,29,480/-. The said articles were stored in Plot No.141 in MIDC, Latur in a tin shed godown on 14th October 2021 and entry of the same was taken in the Muddemal register of the Police Station. It was required to be kept there as there was no space available in the godown of the Police Station. In order to secure the seized articles for its safety duty of the police persons was fixed at the said tin shed godown. Thereafter, the concerned Court had given order on 5th January 2022, to destroy the seized Muddemal and therefore, the informant along with PSI and two police constables as well as two Panchas, went to the spot. When they opened the seal of the godown, they could find that major part of the seized articles was missing. On assessment of the same it was revealed that articles worth Rs.40,15,032/- were stolen by damaging the tin sheets of West-North side of the godown. Information was given to the seniors that some unknown persons had stolen the articles. Thereafter,

Police Inspector of the Crime Branch visited the spot and made inquiry with the adjoining persons of the godown. It is then stated that names of 13 persons have been taken that they have committed the said offence with the common intention and therefore, the FIR has been lodged.

4. At the outset, it is to be noted that inquiry is stated to have been made by Police Inspector Mr. Sanjivan Mirkale of the Crime Branch. What prevented him from lodging the FIR, is a question. Secondly, when the fact of theft came to the knowledge of the informant and PSI Mr. Karad of MIDC Police Station, Latur, why immediately FIR was not registered, is a question. Present FIR has been lodged on 21st January 2022 and the offence was revealed on 5th January 2022. Another fact to be noted is that under which provisions of law Police Inspector Mr. Sanjivan Mirkale of Crime Branch has done the said inquiry is also a question, of which legal effect is required to be considered. Interestingly, the same person i.e. Mr. Sanjivan Mirkale appears to have given certain reports and had even done the part of the investigation later on and now SDPO Mr. Jitendra Jagdale appears to be the Investigating Officer. At the cost of repetition, how Mr. Sanjivan Mirkale would have done the investigation prior to the registration of the offence and how the

same person could have carried out the further investigation after registration of the offence, is also a question.

5. The police papers do not contain statements of those police persons who were on duty for guarding the said godown. Their duty list, timings of duty etc. is absolutely not forming part of the police record which has been submitted to this Court at this moment. In spite of guards kept for the safe custody of the seized articles and when they have not reported about the theft, it shows that something else has taken place and not the way it has been tried to be posed. The custodial interrogation of the applicants is not necessary taking into consideration the way the investigation is being done. Yet, asking the applicants to remain present before the Investigating Officer would suffice. Hence the following order is passed:-

ORDER

- i) Both the Applications stand allowed.
- ii) Interim protection granted to the applicants in Anticipatory Bail Application No.325 of 2022 by this Court by order dated 22nd March 2022 stands confirmed. It is thus clarified that in the

event of arrest of the applicants i.e. applicant No.1 - Govind S/o Ramdas Madrewar, applicant No.2 - Amer Sohel S/o Mukhtar Shaikh, applicant No.3 - Santosh S/o Uttamrao Bidwai, applicant No.4 - Ishwar @ Abhishek S/o Dilip Birajdar, in connection with Crime No.36 of 2022 registered with MIDC Police Station, Latur, District-Latur for the offence punishable under Sections 454, 457, 380, 328 read with Section 34 of the Indian Penal Code they be released on bail on PR Bond of Rs.50,000/- (Rupees Fifty Thousand) each with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each, if not already released.

iii) Interim protection granted to the applicant in Anticipatory Bail Application No.266 of 2022 by this Court by order dated 7th March 2022 stands confirmed. It is thus clarified that in the event of arrest of applicant - Sattar S/o Saheblal Shaikh in connection with Crime No.36 of 2022 registered with MIDC Police Station, Latur, District-Latur for the offence punishable under Sections 454, 457, 380, 328 read with Section 34 of the Indian Penal Code, he be released on bail on PR Bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each, if not already released.

iv) Applicants in both the Applications shall attend Police Station, MIDC, Latur on every Monday, Wednesday and Saturday between 11.00 a.m. to 2.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

v) Applicants shall not tamper with the evidence of the prosecution in any manner.

vi) Applicants shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI , J.]