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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1457 OF 2022

Shafiulla Khalil Sab

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. Sachin S. Deshmukh, Advocate for the applicant
Mrs. P. V. Diggikar, APP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd NOVEMBER, 2022

ORDER :

1. The applicant apprehends his arrest in connection with Crime No. 208 of 2022 registered with Loni Police Station, District - Ahmednagar for the offence punishable under section 420, 406, 328, 407 read with 34 of the Indian Penal Code.
2. The applicant himself is informant, who has lodged the FIR alleging that he conducts transport business and owns two vehicles and also engages vehicles of others for transportation. On 21st May, 2022, household articles were loaded in container bearing registration No. HR38/X3830 belonging to his friend Raju Wanchori for transporting it from Hyderabad to Nashik. One Sarfaraj Shaikh, who is working with the applicant since last

three years, was driving the container. On 22nd May, 202 at about 5.30 a.m. he received call from driver Sarfaraj that the vehicle had broken down at Loni village and after some time, when the applicant tried to contact driver Sarfaraj, his phone was switched off. The applicant, therefore, searched GPRS location, which could be traced till Gogalgaon Shivar. The applicant, therefore, came to Ahmednagar by Bus and by taking car of his friend came to Loni. He visited the last location shown on the GPRS, however, could not locate the container. He, therefore, lodged the FIR alleging that the driver has committed criminal breach of trust by stealing the container.

3. Heard learned advocate for the applicant and the learned Additional Public Prosecutor. Perused the papers of investigation.

4. Raju Wanchori, who is owner of the container, has forwarded a complaint to the Commissioner of Police, Nashik alleging that the applicant is indulged in illegal transportation of Gutkha, which is banned in the State of Maharashtra. Said fact is informed to him by his driver Zabiullah Khan that the applicant and others are involved in illegal transportation of Gutkha, who are working for Hira Pan Masala run by Aslam Tamboli and others.

5. It is revealed during the course of the investigation that from the container, which is seized, Hira Gutkha was being illegally transported. The container was given to the applicant on rental basis. The applicant's presence is necessary for effective investigation.

6. Though the applicant was granted interim protection and was asked to attend the concerned police station and co-operate in the investigation, the applicant has not given any information in respect of the crime to the Investigating Officer. The Investigating Officer has reported that the applicant has not co-operated in the investigation. Taking into consideration the facts of the case and attending circumstances and the investigation papers, custody of the applicant appears to be necessary for effective investigation.

7. Though the learned advocate for the applicant has placed heavy reliance on the protection granted in the cases wherein section 328 of the Indian Penal Code is made applicable, however, in the present crime, there are other sections like 420, 406 and 407 of the Indian Penal Code. Investigation is required to be conducted in the allegations made in the FIR and the papers of investigation. In that view of the matter, the applicant does not deserve discretionary relief of anticipatory bail. The

application is, therefore, rejected. Interim protection is vacated.

8. Learned advocate for the applicant at this stage submits that interim protection granted to the applicant may be continued for a period of two weeks so as to enable the applicant to approach the Hon'ble Apex Court. Interim protection granted to the applicant shall continue for a period of two weeks from today.

[NITIN B. SURYAWANSHI]
JUDGE

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