

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.378 OF 2022

Chetan Krushnaji Bhosale

...Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Swaraj S. Jadhav for the Applicant.

Mr.S.R. Agarkar,APP for the Respondent-State.

Mr.Dnayneshwar Udar, API, Barshi City Police Station.

CORAM : C.V. BHADANG, J.

DATE : 16 FEBRUARY 2022

P.C.

. The Applicant who is holding a B.Pharm degree and is a proprietor of a chemist shop at Yedshi, District-Osmanabad, apprehending arrest in connection with the investigation of Crime No.226 of 2021 of Barshi City Police Station, under Section 420 read with Section 34 of the Indian Penal Code and Sections 18(c), 18A, 17, 27(b)(ii), 27(c), 27(d), 22(1)(cca) and 22(3) of the Drugs and Cosmetics Act and Section 7(1)(a)(ii) of the Essential Commodities Act, is seeking anticipatory bail.

2. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. Perused case diary.

3. The aforesaid offence is registered on the basis of the complaint dated 12 May 2021 lodged by Namdev Sitaramji Bhalerao who is a Food and Drug Inspector at Solapur. A perusal of the FIR shows that one Mahesh Pawar was in need of Remdesivir Injection. On 7 May 2021 the accused Nikhil Sagare had managed to secure two Remdesivir Injections from his friend Amit Waychal for Rs.50,000/-. However, after obtaining the two vials Mahesh Pawar had a doubt about the genuineness of the injections and therefore had demanded back the amount. The FIR discloses that the amount has been returned by Nikhil Sagare and Amit Waychal to Mahesh Pawar.

4. During the course of the investigation, the other accused were arrested on the ground that they had also a role in the procurement and illegal sale of spurious injections claiming it to be Remdesivir. It appears that the injections/vials were sent for the report of the analyst and as per the report dated 26 November 2021 received, the same are found to be spurious. It is after this that on the basis of interrogation of the co-accused Sagar @ Vidhyadhar Chandrakant Dasgude (Accused No.8) the present Applicant has been shown as an accused for the first time in the remand Application dated 30 December 2021. Thus, according to the prosecution it was disclosed by the co-accused Sagar Dasgude, that the injections were procured from the present Applicant Chetan Bhosale.

5. I have heard the learned counsel for the parties.

6. The learned counsel for the Applicant submitted that although the incident is of May 2021 the name of the present Applicant has featured in the remand report for the first time on 30 December 2021. It is submitted that merely on the basis of the CDR report between the Applicant and the co-accused Sagar Dasgude no complicity of the Applicant can be shown. It is submitted that the Applicant has started the pharmacy in the year 2017 and Remdesivir injection were not available for over the counter (OTC) sell.

7. The learned Additional Public Prosecutor has submitted that the CDR records are of 6 May 2021 and therefore the complicity of the Applicant is *prima facie* established and for further investigation custodial interrogation is necessary.

8. I have carefully considered the circumstances and the submissions made. It can be seen that two vials of Remdesivir injections were delivered to Mr.Pawar by Amit Waychal. Perusal of the FIR shows that the amount of Rs.50,000/- which was paid by Mr.Pawar was returned by Amit Waychal and Sagar Dasgude. Thus, at least *prima facie* at this stage it is not shown that the two vials were delivered by the present Applicant in May 2021, the name of the present Applicant figured only in the remand report

dated 30 December 2021 after the receipt of the report of the Chemical Analysis.

9. Be that as it may *prima facie* it appears that the only material at this stage, according to the prosecution, against the Applicant is about certain telephonic calls between the Accused No.8 Sagar Dasgude and the present Applicant and the co-accused Sagar whose statement is recorded on 29 December 2021 has named the present Applicant.

10. In my considered view, looking to the nature of the allegations and the material sought to be relied upon the Applicant can be directed to join the investigation. In the result, the following order is passed.

ORDER

(i) In the event of his arrest in connection with investigation of Crime No.226 of 2021 of Barshi City Police Station, the applicant shall be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(ii) The applicant shall report to the Investigating Officer on 21 and 22 February 2022 between 11.00 am to 1.00 p.m. and as and when called by the

investigating officer and shall co-operate with the Investigating Agency.

(iii) The Applicant shall surrender his mobile phone before the Investigating Officer and the record as may be required and shall co-operate with the Investigating Agency.

(iv) The Applicant shall furnish his permanent address with proof before the Investigating Officer.

(v) In the event of breach of any of the conditions the bail is liable to be cancelled.

(vi) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.