

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

ANTICIPATORY BAIL APPLICATION NO.872 OF 2022

Subhashchandra Vinubhai Patel

...Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Ashok Mundargi, Senior Counsel a/w. Mr. Amit Ghag, Mr. Vishal Maheshwari and Ms. Kamini Pansare i/b. V M Legal, for the Applicant.

Mr. R. M. Pethe, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 31 MARCH 2022

P.C.

. The Applicant, apprehending arrest, in connection with investigation of Crime No.764/2021 of Police Station Pandarpur Taluka, Solapur Rural, under Section 420, 272 and 273 r/w. 34 of IPC and Section 26(1), 26(2)(i), 26(2)(v), 27(3)(e), 59, 3 of the Food Safety and Standards Act, 2006 (said Act, for short), is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint dated 30 October 2021 lodged by Prashant Shashikant

Kupekar, who is a Food Safety Officer working with Foods and Drugs Department at Solapur. According to the informant, a secret information was received that the cow milk was being carried in a vehicle bearing No.MH09-CU-0007 from Shegaon, Taluka Jath, District Sangli to *M/s. Sabarkantha District Co-operative Milk Producer Union Limited* at Kasegaon, Taluka Pandarpur, District Solapur, and the milk was being passed off as buffalo milk, by addition of adulterants.

3. Accordingly, a raid was conducted and the sample was obtained which was sent to the Foods Analyst, Foods and Drugs Administrations Laboratory (M.S.) Mumbai, in which it was found that the milk was containing skimmed milk power and secondly 'BR reading' for 'milk extracted fat' was 40 to 44. It was on these two counts that the milk was found to be of substandard quality.

4. In this case the learned Sessions Judge has refused to grant anticipatory bail to the Applicant.

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

6. It is submitted by the learned Senior counsel for the Applicant that the offence under Section 272, 273 of IPC are

bailable. He submitted that the offence under Section 420 of IPC cannot *prima facie* be made out. In so far as the offence which is punishable under Section 59 of the said Act, it is pointed out that under Section 59(i) where such failure or contravention does not result into any injury, carries sentence of imprisonment of six month with fine, which would also be a bailable offence. Certain submissions about the competence of the complainant to lodge the complaint is also made.

7. Learned APP submitted that on prior secret information the raid was conducted. It is submitted that but for the raid, the milk would have been distributed, which was found to be of a substandard quality, which was injuries to health.

8. I have considered the circumstances and the submissions made.

9. It can *prima facie* be seen that admittedly even according to the prosecution, the milk was brought in a container from Jath, Sangli to Pandarpur. While it was being offloaded in the dump tank, the sample was taken which was found to be of a substandard quality. It can be seen that in the absence of the actual injury being found, the offence under Section 59(i) of the said Act is punishable upto six months of imprisonment and offence under Section 272 and 273 of IPC are bailable in nature.

That apart, it transpires during the course of the hearing that the milk which was found to be of a substandard quality has been seized and destroyed. Thus, custodial interrogation of the Applicant is not warranted in the facts and circumstances of the case.

10. In the result, the following order is passed.

ORDER

(i) In the event of his arrest, in connection with investigation of Crime No.764/2021 of Police Station Pandarpur Taluka, Solapur Rural, the Applicant Subhashchandra Vinubhai Patel, 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 6/4/2022 and 7/4/2022 between 11.00 a.m. to 1.00 p.m. and as and when called and shall cooperate with the Investigating Agency.

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

C.V. BHADANG, J.