

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 509 OF 2022

Nilesh Vilas Bangar

...Applicants

Versus

State of Maharashtra & Anr.

...Respondent

Mr. Mateen Shaikh a/w Mrs. Afreen Khan, for the
applicant.

Mr. J. S. Lohokare, APP for the State-Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 23rd JUNE, 2022

PC:-

1. Heard the learned counsel for the applicant and the learned APP for the State-Respondent.
2. The applicant, who is the proprietor of a firm "Niles Organic", which manufactures Sodium Nitrate, Sodium Citrate, Sodium Hydroxide at Pimpalgaon Tarfe Mahlunge, Ambegaon, Pune, is arraigned in connection with CR No.176 of 2021, registered with State Excise Department, Daund, Pune, for the offences punishable under sections 2(a) and 6 of the Poisons Act, 1919 and Sections 65(a)(b)(d)(e), 66(c)(d) 81, 83 and 90 of the Maharashtra Prohibition Act, 1949 and Section 328 of Indian Penal Code, 1860, for having supplied Chloral Hydrate (CH) to the co-accused, who were allegedly

found in possession of illicit Tadi. This Court while granting pre-arrest interim bail *inter alia* observed as under:

“3. The learned counsel for the applicant has submitted that FIR does not name the present application and he is not found to be in possession of any illicit Tadi. It is submitted that name of the applicant figured on the basis of the statement made by co-accused. It is submitted that the applicant is having an establishment by name “Niles Organic” which is a firm manufacturing Sodium Nitrate, Sodium Citrate, Sodium Hydroxide at Pimpalgaon Tarfe Mahlunge, Ambegaon, Pune for which the applicant is having a licence from the Food and Drugs Department.

4. The learned APP submitted that the illicit Tadi containing Chloral Hydrate is found to be injurious to health as reported by the pharmacology Department, Pune. He submits that there are 3 to 4 similar previous offences in which the name of the applicant has figured as supplier of Chloral Hydrate. It is submitted that the applicant has no licence of manufacturer or sale of Chloral Hydrate.

5. I have considered the submissions made. A specific query was made to the learned APP, whether manufacturer/possession of Chloral Hydrate is illegal or is banned. It is submitted that the manufacturing of the same, is not banned. However, it is submitted that the applicant is not having a licence for manufacture of the same. Prima facie, it appears that there is no recovery of any illicit Tadi containing Chloral Hydrate from the present applicant. The name of the present applicant figured during the interrogation of the co-accused. In my considered view, for the present, the applicant can be directed to join the investigation and the Investigating Officer can verify whether the applicant indeed has licence for manufacturing of Chloral Hydrate.”

3. The aforesaid observations, if considered in the right of the gravamen of indictment against the applicant, make out a case for confirming the order of pre-arrest bail. Indisputably, the applicant was not found in possession of illicit Tadi. It was not the case of the prosecution that, the manufacture and/or possession of Chloral Hydrate is either prohibit or illegal. What

was to be ascertained was whether a licence was required for manufacture and/or possession of Chloral Hydrate. For the said purpose, custodial interrogation is absolutely unwarranted. Since the applicant deals in an established business, the possibility of fleeing away from justice also seems remote.

4. Hence, I am inclined to make the order of interim pre-arrest bail absolute.

5. Thus, the following order.

: ORDER :

(i) The order of pre-arrest bail dated 25th February, 2022 is made absolute on the terms and conditions incorporated therein.

(ii) In addition, the applicant shall regularly attend the proceedings before the jurisdictional Court.

[N. J. JAMADAR, J.]