

Sayali Upasani

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

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ANTICIPATORY BAIL APPLICATION NO. 665 OF 2022

Datturamchandrasa S/o. Chidanandasa ...Applicant

Versus

State of Maharashtra ...Respondent

Mr.Ruturaj Bathe a/w Mr. Avinash Kamble a/w Mrs. Pooja
Agarwal i/b Mr. Vaibhav Kulkarni, for the Applicant.
Ms.P. N. Dabholkar , APP for the State/Respondent.
API- Mr. Vishal Mohite, Crime Branch, Unit 2.

CORAM: N. J. JAMADAR, J.

DATED: 11th July, 2022

ORDER:-

1. Heard the learned counsel for the Applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with C.R. No.143 of 2022 registered with Hadapsar Police Station, Pune for the offences punishable under Sections 409 and 420 read with 34 of Indian Penal Code, 1860 (the "Penal Code") and Section 3 and 7 of the Essential Commodities Act, 1955.
3. When the matter was listed before the Court, on 15th March,2022, while granting interim relief this Court observed as under,-

2. The aforesaid crime is registered on the basis of complaint dated 12 February 2022 lodged by Police Constable Gajanan Sahebrao Sonune, attached to Crime Branch, Pune City. According to the informant, on the basis of a secret information received on 11 February 2022 about transport of food grains meant for supply through the Fair Price Shop, three trucks bearing No.(1) MH18-BA-7725, (2) MH18-BG-0053 and (3) MH18-BG-5859, were intercepted and were found to be carrying 800 quintals of rice worth Rs.25 Lakhs. The driver of the truck could not satisfactorily explain the same. The Applicant claims to be owner of the rice which was being transported from Karnataka for delivery to the trader in Maharashtra.

3. The learned counsel for the Applicant submitted that the invoice along with e-Way Bill has been produced before the Investigating Officer. These documents are also produced along with the present Application. The learned counsel for the Applicant further pointed out that the rice was referred to the District Supply Officer (DSO). However, he could not give any conclusive opinion

that the rice was meant for distribution through the Ration Shops.

4. Learned APP pointed out that the rice bags were bearing a stamp “not for sale” and further investigation needs to be carried out.

5. In my considered view, it is for the Investigating Officer to refer the rice to the appropriate authority in Maharashtra /Karnataka and also verify the fact about the invoice / e-Way Bills and any other documents produced by the Applicant in order to investigate whether the rice was for distribution / sale through the Fair Price Shop.

6. For the present, the Applicant can be directed to join the investigation.

4. The learned counsel for the Applicant submitted that in the intervening period, the interim protection granted to the co-accused has been made absolute by the learned Sessions Judge. The learned counsel for the applicant further submits that on 11th May, 2022, the District Collector passed an order and directed that the seized commodity (rice) be returned to M/s. Kanaklaxmi Agro Traders, of which the

applicant is the proprietor.

5. The learned APP, on the other hand, submitted that the investigation has revealed that the applicant has not procured the rice from the sources disclosed by him, and the bags were impressed with the seal, 'not for sale' and it appears that the commodity was obtained from other States.

6. In the backdrop of the nature of the accusation, this Court had recorded that it was necessary to investigate as to whether the seized rice was meant for distribution/sale through the fair price shop. The District Collector has recorded a finding that the seized commodity was not procured from any government godown or fair price shop in the State of Maharashtra. Thus, after obtaining a bank guarantee for the sum of Rs.11,53,500/- the commodity was directed to be returned to the applicant.

7. In the aforesaid view of the matter, the allegations in the first information report, even if taken at par, do not make out imperativeness of the custodial interrogation of the applicant for an effective investigation. It further appears that the applicant has roots in society. Possibility of fleeing away from justice seems to be remote.

8. In the circumstances, I am persuaded to make interim protection absolute.

9. Hence, the following order,-

ORDER

(I) The application stands allowed.

(II) The order of interim pre-arrest bail dated on 15th March, 2022 is made absolute on the terms and conditions incorporated therein.

(III) The Applicant shall cooperate with the investigation and report to the Investigating Officer as and when directed.

[N. J. JAMADAR, J.]