

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 764 OF 2022

Rakesh Ramling Kilche

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Raviraj R. Parmane, for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent/State.

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CORAM : C.V. BHADANG, J.
DATE : 11 APRIL 2022

P.C.

. By this Application, the Applicant apprehending arrest in Crime No.274/2020 of Police Station Panvel City, District Raigad, under Section 3 & 7 of the Essential Commodities Act, 1955, Section 420, 465, 468, 470, 471 and 120-B r/w. 34 of IPC and Section 13 of the Targeted Public Distribution System (Control) Order, 2015 a/w. Section 4, 6 and 23 of the Maharashtra Foodgrains Rationing (Second) Order 1966, is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint dated 1 August 2020 lodged by Santosh Motiram

Patil, who is a Circle Officer, attached to Office of the Tehsildar Panvel. He states that a communication was received on 31 July 2020 from PSI attached to Police Station Panvel informing that rice for sale and distribution through the fair price shop was stored at a godown of '*Take Care Logistics*' at Palaspe, Tehsil Panvel, District Raigad. It was informed that the rice has been stored with a view to sale it in black market. Accordingly, a raid was conducted at the said godown wherein, a total of 2220 bags comprising of yellow and white colour plastic bags and gunny bags having logo of Food Corporation of India (FCI), Government of Punjab and Government of Haryana were recovered. The rice recovered was worth 110000 Kgs amounting (to Rs.33 Lakhs). An inquiry was made with one Pramod Sawant who was the Manager at the said godown, who disclosed that one Iqbal Kazi is the owner of the godown which is under the supervision of customs department. It was also revealed that the co-accused Bhimashankar Khade had brought the rice from different places and was stored in the godown for being sold to one Laxman Chandra Patel.

3. On the basis of such a complaint, the offence came to be registered and after investigation, a chargesheet was initially filed against three accused Navnath Rathod, Sattar Sayyed and Krishna Pawar. Subsequently, a supplementary chargesheet came to be filed against five accused. The prosecution also claims that during the investigation, there was a further recovery of rice

comprising of 860 gunny bags worth Rs.91,12,046/-. Thus, according to the prosecution, the total amount of rice recovered is Rs.1,24,20,046/-.

4. In so far as the present Applicant is concerned, (who is shown as wanted Accused No.6), the prosecution case is that the rice stored in the '*Take Care Logistics*' godown was brought in different truck loads on the say of the present Applicant. Further, according to the prosecution, it was also disclosed that the transport of the rice from Karnataka was arranged by the present Applicant. It was also disclosed that the invoice of '*Dhanalaxmi Trading Company*', Barshi prepared by the Applicant was false and fabricated.

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

6. The learned counsel for the Applicant submitted that the Applicant has no complicity in the offence. It is submitted that it is not established that the rice recovered was meant for distribution through the fair price shop and in absence thereof, the offence is not made out. The learned counsel has placed reliance on the decision of this Court in *Narayandas Madanlal Somani Vs. State of Maharashtra*¹, in order to submit that mere fact that the bags were having stamp of Food Corporation of

¹2002 ALL MR (Cri) 1966

India would not be sufficient to hold that the rice was to be sold through the fair price shop.

7. Learned APP submitted that there is material collected during the investigation that it was the Applicant who had arranged for the transport of the rice and even the invoice of '*Dhanalaxmi Trading Company*', *Barshi* was found to be fake. He pointed out that the Applicant was found to be in contact with the co-accused Laxman Patel and Bhimashankar Khade before and after the recovery of the rice. He also pointed out that there are criminal antecedents against the Applicant.

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

9. It is necessary to note that presently I am only concerned with the prayer for pre-arrest bail. The prosecution has filed the chargesheet and the supplementary chargesheet and some of the accused are shown to be wanted including the present Applicant. It can *prima facie* be seen that there are statements of the truck owners / drivers showing that the transport was arranged by the Applicant from Karnataka to Raigad. It also appears that the Collector, Raigad Alibag by order dated 21 December 2021 had confiscated the rice, directing it to be distributed through the fair price shop and for credit of the amount to the Government,

which may *prima facie* indicate that the rice was meant for distribution through the fair price shop.

10. Reliance placed on the decision in *Narayandas Madanlal Somani* to my mind is misplaced, particularly, at this stage. That was an Appeal challenging the conviction under Section 7 read with 3 of the Essential Commodities Act and one of the reasons for acquittal by this Court was that five gunny bags (having FCI stamp) were not produced before the trial Court in that case.

11. The Applicant is also shown to be involved in an offence under Section 307 in Crime No.173/14 of Police Station Vairag, Crime No.357/2020 of Police Station Vairag Crime No.580/2020 of Police Station Barshi, Solapur and Crime No.145/2020 of Police Station Khalapur are under the Essential Commodities Act. It is also found that an amount of Rs.70,88,000/- is transferred to the account of the Applicant from Anand Food Industries, Jay Food Product and Zenith Impex of the co-accused Laxman Patel.

12. Considering the nature, scope and ambit of the offence, in my considered view, the custodial interrogation of the Applicant is necessary. No case for grant of pre-arrest bail is made out. The Criminal Application is hereby rejected.

(C.V. BHADANG, J.)