

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1506 OF 2022

Arvind Kumar Panechand Jain] ... Applicant

Vs.

The State of Maharashtra] ... Respondent

...

Mr. Aabad Ponda, senior counsel with Mr. Shailesh Kharat for the applicant.

Mr. S.V. Gavand, A.P.P. for the State.

Mr. M. Desai, senior P.I. attached to the Navghar Police Station, Thane, is present in the court.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 09TH JUNE, 2022.

P.C.:-

1. The applicant is arraigned as an accused in C.R. No.I-280 of 2022 registered with Navghar Police Station for offences punishable under Sections 420, 465, 467, 468, 471, 474 read with Section 34 of the IPC along with Sections 18(a), 18(c) and 27 of the Drugs and Cosmetics Act, 1940. He is apprehending his arrest in the said C.R.

2. The applicant is a supplier of medicines and is carrying out his business in the name of M/s. Genova Biotee from his shop at Ground Floor, Shiv Shakti Darshan, Chanda Park, Near Jesal Park, Bhayander (East), Thane. In the course of his business, he purchased certain drugs from M/s. Minal Pharmaceuticals under Invoice dated 15/05/2020 and sold the same to the hospital of Mira Bhayander Municipal Corporation. The stock in the said hospital being subjected to the scrutiny, led the Drug Inspector noticing that the drugs are not genuine one and, that is how, upon investigation being carried out, it led him to the applicant. When he lodged a complaint with the police station, he established the chain and the manner in which the applicant had received the stocks from M/s. Minal Pharmaceuticals, who, in turn, has received it from M/s. Adarsh Pharma.

3. The chain of the supply ultimately landed in the hospital of the Corporation and it was noticed that the drug is manufactured without licence.

4. Mr. Ponda, learned senior counsel has sought recourse to sub-section (3) of Section 19 of the Drugs and Cosmetics Act in the form of pleas under Chapter IV, which are available for being raised in defence and this permits a person, who is not a manufacturer of a drug or cosmetic or agent for the distribution, to raise a plea that he had acquired the same from duly licensed

manufacturer, distributor or dealer thereof and that he did not know and could not, with reasonable diligence, have ascertained that the drug or cosmetic in any way, contravened the provisions of that section and that the drug or cosmetic, while in his possession was properly stored and remained in the same state as when he acquired it.

5. *Prima facie* reading of the FIR itself establishes that the present applicant, who is the proprietor of M/s. Genova Biotee has obtained the drug under the Invoice of Minal Pharmaceuticals and the proprietor of Minal Pharmaceuticals has admitted the same. The chain has further extended to Adarsh Pharma. In such circumstances, since the applicant is entitled to take a defence under Section 19(3) of the Drugs & Cosmetics Act, looking to the nature of allegations, the custodial interrogation of the applicant is not warranted. He is therefore, entitled for protection from arrest in the peculiarity of the narration given in the complaint by the complainant himself. Hence, the following order:

ORDER

- (a) In the event of arrest, the applicant – **Arvind Kumar Panechand Jain** shall be released on bail in C.R. No.I-280 of 2022 registered with Navghar Police Station, District Thane, on executing P.R. bond to the extent of Rs.50,000/-

and furnishing one or two sureties of the like amount.

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

(c) The applicant shall report to the Navghar Police Station, Dist. Thane on 15/06/2022, 16/06/2022 and 17/06/2022 between 03.00 p.m. and 05.00 p.m. and, thereafter, as and when directed by the Investigating Officer.

6. The application is disposed of in the aforesaid terms.

7. All parties are directed to act on the downloaded copy of the order supplied by the advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]