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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1615 OF 2022**

Santosh Narhari Ingale Applicant.
V/s
The State of Maharashtra Respondent.

Mr. Aniket Nikam i/b Amit Icham for the Applicant.
Ms. Pallavi N. Dabholkar, APP for the Respondent/State.
Mr. Gopal Ganpat Gholave HC/1701 Natepute Police Station, present.

CORAM: NITIN W. SAMBRE, J.

DATE: SEPTEMBER 16, 2022

P.C.:-

1] Applicant is seeking pre-arrest bail in C.R. No. 151 of 2022 dated 20/04/2022 registered with Natepute Police Station, District Solapur.

2] Complainant is a Drug Inspector. He having noticed that spurious drugs under the trade name ZIFI-200 are sold through certain pharmaceutical outlays, source of which was tried to be traced. It is found that the Applicant who is a wholesaler is a supplier of the said drugs. As such, he is impleaded as accused in the offence as no lawful source and documentation was noticed.

3] Mr. Nikam, learned Counsel for the Applicant would urge that even if during inquiry by the Drug Inspector, it was found that

Applicant has procured around 150 tablets from the transporter, there is no evidence on record to infer that such drug was spurious and was supplied by the Applicant. According to him, considering the presumption of innocence in favour of the Applicant, what is expected from the prosecution is to prima facie demonstrate that (spurious) drugs found in the custody of the retail pharmacists were sourced from the Applicant. In addition, his contentions are, Applicant who has roots in the Society is available for investigation and that being so, prayer of the Applicant be allowed. He would further urge that Applicant has cooperated with the Investigating Officer in view of the fact that he was on interim protection.

4] Learned APP would oppose the prayer. According to her, Applicant not only has not cooperated in the investigation, but a categorical admission given by the Applicant about the illegally sourced ZIFI-200 tablets is sufficient enough to directly connect him with the offence in question. According to her, custodial interrogation of the Applicant is verymuch required, keeping in mind the adverse effect of such spurious drugs on the patients or consumers.

5] This Court has granted interim protection to the Applicant vide order dated 21/06/2022 on the ground that Applicant has not supplied spurious drugs. It is the claim of the Applicant that he has not supplied the spurious drugs and the order passed by the Food and Drugs Administration, cancelling drug license of the Applicant has

been stayed by the State Government. Thereafter, when the matter of retail pharmacists was heard by this Court being ABA No.2468 of 2022 and ABA No.2470 of 2022, this Court has issued notice to the present Applicant to remain present. This Court has specifically noted in the order dated 08/09/2022 as to how the Applicants/retail pharmacists are not entitled for protection. This Court has also noted that offence is serious in nature and has significant potential of affecting adversely the health of patients to whom such drug is prescribed. Fact remains that during investigation, it is noticed that the Applicant is in a habit of procuring drugs from illegal sources, particularly transporters. Once it is found that Applicant's source of procuring the drugs is not genuine/ illegal, presumption has to be drawn against the Applicant of making available spurious drugs to be brought in market through retail pharmacist.

6] In the aforesaid backdrop, in my opinion, there is enough material on record to directly connect the Applicant with the offence in question. Considering the nature of offence, claim for custodial interrogation is quite justified.

7] Apart from above, learned APP on instructions from Investigating Officer has informed that Applicant has not cooperated in the investigation.

8] That being so, no case for anticipatory bail is made out. Application stands rejected.

9] At this stage, Counsel for the Applicant submits that ad-interim protection be continued atleast for one week from today. Prayer is strenuously opposed by the learned APP.

10] Considering the admission given by the Applicant that he has procured drugs from illegal source i.e. transporters, in my opinion, ad-interim protection cannot be continued. As such, said prayer stands rejected.

(NITIN W. SAMBRE, J.)