

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

CRIMINAL BAIL APPLICATION NO.3201 OF 2021

Dilip Dyandev Gaikwad ...Applicant
Vs.
The State of Maharashtra ... Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.3234 OF 2021**

Shankar Dada Bhise ...Applicant
Vs.
The State of Maharashtra ... Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.3363 OF 2021**

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Prashant Siddehwar Gharat ...Applicant
Vs.
The State of Maharashtra ... Respondent

Mr.A.P. Mundargi, Senior Advocate i/b Bhalchandra Shinde for
the Applicant in BA No.3201 of 2021.

Mr.Ranjit Pawar for the Applicant in BA No.3234 of 2021

Mr.Rahul Kate for the Applicant in BA No.3363 of 2021

Mr.Y.Y. Dabke, APP for the Respondent-State in All
Applications.

CORAM : C.V. BHADANG, J.

DATE : 5 JANUARY 2022

P.C.

. All these Applications for bail, arise out of Crime
No.244 of 2021 of Baramati Taluka Police Station, District-Pune
(Rural), under Section 304, 420, 279, 188, 120B read with

Section 34 of the Indian Penal Code, Section 2,3, and 4 of the Epidemic Diseases Act, 1897. Section 3(2)(c), Section 7(1)(a)(ii) of the Essential Commodities Act, Section 18(c) read with Section 27(b)(ii), 18A read with 28, 18(a)(i) and 17B read with 27(c), 22(1)(cca) read with Section 22(3), rule 104 read with 27(d) of the Drugs and Cosmetics Act 1940.

2. The aforesaid offence is registered on the basis of the complaint dated 17 April 2021 lodged by Vithal Nangare, Food Inspector attached to the Food and Drugs Administration, Pune.

3. According to the informant the Applicants along with co-accused sold spurious Remdesivir injections during the Pandemic at the rate of Rs.35,000/- per vial. In short according to the prosecution the Applicants had filled the empty Remdesivir vials with Paracetamol and same were sold as genuine Remdesivir injections there by endangering the life of those suffering from Covid-19 disease.

4. Apart from Applicant Prashant Gharat (A-1), Shankar Bhise (A-2) and Dilip Gaikwad (A-3), there are five other Accused in the Crime, out of which Accused No.5 is stated to be a Juvenile who has been dealt with separately. Out of the remaining Accused Dayanand Gosavi (A-6) and Swapnil Narute (A-8) have been released on bail by the learned Sessions Judge while refusing to release the present Applicant on bail.

5. On 16 April 2021 a secret information was received at Baramati Police Station that some persons are black marketing Remdesivir Injections (Vials) in MIDC Area, falling within the jurisdiction of Baramati Taluka Police station. Accordingly, a joint raid was arranged with the Officers of the Food and Drugs Department. The Officers of the Food and Drugs Department, and the Baramati Taluka Police Station along with panchas and a decoy customer visited the spot where the Applicant Prashant Gharat (A1) and Shankar Bhise (A2) were found present near a Fortuner Car bearing No.MH-43-AT-9696 on the Service Road in front of Mahendra Showroom on the road leading from MIDC Square to Bhigwan Road. The decoy customer purchased a vial from them. On the predetermined signal being given the other members of the raiding party, went to the spot and the Applicant-Accused Nos.1 and 2 were apprehended on the spot. They disclosed that they were acting for Accused Dilip Gaikwad (A3). The accused Dilip Gaikwad was found to be the registered owner of the Fortuner Car. It further appears that on such disclosure, the members of the raiding party with A-1 and A-2 went to Moti Nagar at Surya Nagri, Baramati, where the Applicant Dilip Gaikwad (A-3) was present and he came to be apprehended. During their interrogation it was further revealed that the Accused No.4 Sandeep Gaikwad who was working as a ward boy was supplying the spurious injection-vials. It was revealed during the course of the investigation that the accused Sandeep Gaikwad

used to collect the empty Remdesivir Vials along with caps from Arogya Hospital, Baramati and Critical Covid Centre, Baramati, and the accused used to fill them with paracetamol liquid which were sold as Remdesivir. During the course of the investigation the involvement of the other accused also surfaced. After completion of the investigation a charge-sheet is filed.

6. It is necessary to note that from the statement of Dr.Hanumet Gorad it was disclosed that on account of the administration of the such spurious injection one Swapnil Jadhav who was being treated for Covid-19 infection had expired.

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

8. I have considered the submissions made. It appears that there was a prior information received at Baramati Taluka Police Station about the sale of the Remdesivir injection-vials in black market. A joint action was taken by the officers of the Police Station and that of the Food and Drugs Department. A perusal of the complaint dated 17 April 2021 of Vijay Nangare shows that a contact was made from the mobile of the decoy customer Mr.Machindra Tingre to the mobile number of the person in respect of whom the information about sale and black marketing of the Remdesivir injection was received and the said

person had called decoy customer in the MIDC area. During the actual raid the accused Nos.1 and 2 were found along with Fortuner Car and had sold one vial to the decoy customer and after which they were apprehended on the spot. The Fortuner Car was also found containing the vials, injections sterile water, bottle, syringe and mobile etc.

9. The offence by any standard is serious. When the society in general and the individuals in particular were going through the ordeal, of the pandemic and the consequent lock down the Applicants had taken undue advantage of the situation for their own benefit. This is not a case where genuine Remdesivir injections were sold in the black market. The Applicants had managed to sell vials containing paracetamol liquid as Remdesivir injections endangering the life of the persons being treated for Covid-19 infection.

10. The investigation had also disclosed that there was death of one such patient namely Swapnil Jadhav, which is evident from the statement of Dr.Gorad. Upon death of Swapnil Jadhav offence under Section 304 and 120B of IPC was added in the crime.

11. Currently the society is grappling with the third wave of the pandemic and the possibility of the Applicants again

indulging into similar activities and thereby misusing the liberty cannot be ruled out.

12. Considering the overall circumstances, no case for grant of bail is made out. The Applications are accordingly rejected.

C.V. BHADANG, J.