

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2941 OF 2021

Jyotiram Pralhad Tandale ...Applicant
vs.
The State of Maharashtra ...Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.2966 OF 2021

Sunil Shankarrao Ingale and Another ...Applicants
vs.
The State of Maharashtra ...Respondent

Ms. Monish Bhatia a/w. Mr. Robin Singh, for the Applicants
Mr. Y.Y. Dabake, APP, for the State.

CORAM : N. J. JAMADAR, J.
DATE : JULY 05, 2022

P.C.:

1. These applications are preferred for pre-arrest bail in connection with C.R. No. 136 of 2021, registered with State Excise 'D' Department, Pune for the offences punishable under sections 65(a)(e), 81, 83 and 108 of the Maharashtra Prohibition Act, 1943 and sections 420, 465, 468 and 471 of Indian Penal Code, 1860.

2. On 6th November, 2021 a container truck of Eisher make bearing number MH-09-FL-2948 was intercepted by the raiding party of Sate Excise Department. Krishna Kande was at the wheel of the said container truck. The transport documents indicated that

the said truck was laden with the medicines purported to be loaded by Lacent Pharma Private Limited, Verna Industrial Estate, Salcet Goa. A search was conducted in the presence of the public witnesses. Apparently, the container truck seemed to be loaded with cartons containing medicines. However, upon scrutiny, the boxes containing foreign liquor, Imperial Blue Whisky, Macdoll No. 1 Reserve Whisky, Adrial Blue Classic Whisky which were meant for sale only in the State of Goa, were found concealed with the cartons of medicines. Those boxes were seized. Samples were collected. The investigation revealed that the applicant Jyotiram Tandale who is the owner of the vehicle was transporting the said contraband articles, by resorting to fabrication of the transport documents. Disguised as medicines the contraband articles were being transported to Rajasthan. Hence, the applicant came to implicated.

3. Apprehending arrest, Jyotiram Tandale has preferred Application No. 2941 of 2021. The applicants Sunil Ingale and Sanju Kamble, in Application No. 2966 of 2021, are alleged to be the partners of Jyotiram Tandale.

4. When the applications were listed before the Court on 9th December, 2021 and 10th December, 2021, this Court was persuaded

to grant interim pre-arrest bail opining inter alia that the applicants were, prima facie, not found in possession of the incriminating articles and thus a case for interim protection was made out.

5. I have heard Ms. Bhatia, learned counsel for the applicants and Mr. Dabake, learned APP, for the State at some length.

6. The learned counsel for the applicants would urge that there is material to indicate that the container truck was persued from Kolhapur and the contraband articles were planted. It was further submitted that since the incriminating articles have been seized and the investigation has reached an advanced stage, custodial interrogation of the applicants is not warranted.

7. The learned APP submitted that the applicants had resorted to fabrication of transport documents so as to transport the contraband articles disguised as medicines.

8. I have perused the allegations in the first information report and the investigation papers including the seizure panchanama. Indisputably, the contraband articles allegedly found in the

container truck have been seized. The co-accused who was allegedly carrying those contraband articles has since been arrested and released. The applicants were not found in possession of the contraband articles. Even, the transport documents have been seized by the investigating agency.

9. Without delving into the contentions of the applicants that the truck was pursued from Kolhapur and the incriminating articles were planted, their entitlement for pre-arrest bail is required to be considered from the perspective of the necessity of their custodial interrogation. In the facts of the case, qua the offence of alleged transportation of the contraband articles, in breach of prohibition orders, with the seizure of those contraband articles and arrest of the persons who were carrying those articles, the investigation can be said to be practically complete. The custodial interrogation of the applicants, from this stand point, does not seem warranted especially at this length of time from the date of occurrence. Thus I am inclined to confirm the inetrin order of pre-arrest bail.

Hence, the following order.

ORDER

- 1] The applications stand allowed.
- 2] The interim orders of pre-arrest bail dated 9th December, 2021 and 10th December, 2021 stand confirmed on the terms and conditions incorporated therein.
- 3] The applicants shall cooperate with the investigation and report to the investigating officer as and when directed.
- 4] The applicants shall regularly attend the proceedings before the jurisdictional Court.

(N. J. JAMADAR, J.)