

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.211 OF 2022

Dilip s/o Suresh Heda

Vs.

The State of Maharashtra through Police Station Officer, Police Station, Risod,
District Washim

WITH

CRIMINAL APPLICATION (BA) NO.219 OF 2022

Mujahid Khan Inayat Khan and others

Vs.

The State of Maharashtra through Police Station Officer, Police Station, Risod,
District Washim

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V. R. Deshpande, Advocate for applicant in BA No.211 of 2022.

Mr. M. N. Ali, Advocate for applicants in BA. No.219 of 2022.

Mr. A. R. Chutke, APP for non-applicant/State in both applicants.

CORAM : AVINASH G. GHAROTE, J.

DATE : 04/04/2022

Heard Mr. Ved Deshpande, learned Advocate for applicant in Criminal Application (BA) No.211 of 2022, Mr. Ali, learned Advocate for applicants in Criminal Bail Application (BA) No.219 of 2022 and Mr. Chutke, learned APP for non-applicant/State in both applications.

2. The applicants are arraigned in Crime No.55 of 2022 for the offence punishable under Sections 328, 188, 273 read with Section 34 of the Indian Penal Code

and Section 59 of the Food Safety and Standards Act, 2006.

3. Mr. Deshpande, learned counsel and Mr. Ali, learned counsel for the applicants submit that except the statement under Section 27 of the Indian Evidence Act made by the accused no.2 Toufiq Kha Jafir Kha (page 65), which according to them, is inadmissible in as much as it relates to the naming of the applicants, there is nothing on record to indicate the involvement of the applicants in the alleged offence. It is further submitted that there is also no recovery from the applicants, in view of which, they are entitled for bail.

4. Mr. Chutke, learned APP for non-applicant/State does not dispute the above position that except for what has been stated in the statement under Section 27 of the Indian Evidence Act, there is no material on record to show the complicity of the applicants. He, however, invites my attention to the statement of Satyanaraya Sitaram Mandhane (page 188) and Sachin Dilip Karkal (page 187) to submit that the applicants are the recipients of the contraband and therefore, the application is liable to be rejected.

5. The incident is dated 23.01.2022, in which in raid conducted by the police authorities in the dilapidated portion of the house, owned by one Sunil

Tapadiya, contraband to the tune of Rs.1.90 Crores was recovered at Beldar wadi, Risod, Tah. Risod, District Washim. The statement of Sachin Dilip Karkal (page 187) and Satyanarayan Sitaram Mandhane (page 188) though indicate the contraband is supplied to the applicants, however it appears that the Police Authorities have not conducted a raid at the premises owned by the applicants, nor any further enquiry has been done in this regard, in view of which, merely on the statement of the aforesaid two witnesses, the applicants appear to have been implicated. The charge-sheet has been filed on 23.03.2022 and the applicants have been arrested on 05.02.2022, considering which, the case for bail is made out. Hence, the following order.

ORDER

- (i) Applications are allowed.
- (ii) The applicants in Criminal Application (BA) Nos.211 of 2022 and 219 of 2022, be released on bail in Crime No.55 of 2022 for the offence punishable under Sections 328, 188, 273 read with Section 34 of the Indian Penal Code and Section 59 of the Food Safety and Standards Act, 2006, on furnishing their P.R. bond of Rs.2,00,000/- (Rupees Two Lakh) with two solvent sureties each of the like amount.
- (iii) The applicants shall not, directly or indirectly make any attempt to influence the witnesses or otherwise tamper with the evidence.
- (iv) In case the applicants are found to have indulged into a single similar offence, the bail granted to the applicants shall stand automatically cancelled.

(4)

21.211.2022 & 21.A.219.2022

(v) The applicants shall attend each and every date before the learned Sessions Court and even a single default shall result in cancellation of bail.

(vi) The applicants, in case they have passport, shall surrender the passport to the Investigating Officer and shall not leave the Country without permission of the Court.

JUDGE

Sarkate