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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.139 OF 2023

Rakesh Amarlal Batheja and Another APPLICANTS

VERSUS

The State of Maharashtra and Another RESPONDENTS

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Mr. Avinash R. Borulkar, Advocate for the applicants
Mr. V. S. Badakh, APP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 9th FEBRUARY, 2023

ORDER :

1. The applicants apprehend arrest in Crime No. 397 of 2022 registered with MIDC, CIDCO, Police Station, Aurangabad for offence punishable under sections 328, 188, 273 read with 34 of the Indian Penal Code and under section 59 of the Food Safety and Standards Act.

2. Assistant Police Inspector, MIDC, CIDCO Police Station, Aurangabad lodged a report on 18th October, 2022 stating that on 17th October, 2022, they received secret information that articles banned in State of Maharashtra, like Gutkha, Pan Masala, Scented Tobacco, scented / Sweet Beetle Nut etc. are being brought in a vehicle No. MH-19/Z-4657 for sale. Accordingly,

they intercepted said vehicle / truck. One Sheetal Bohra was present there. From the said vehicle, 25 gunny bags of Rajnivas Pan Masala and 25 gunny bags of Jarda Tobacco was seized.

3. Accordingly, FIR was lodged against 6 accused persons. During the course of investigation, names of present applicants were transpired.

4. Heard learned advocate for the applicants and the learned Additional Public Prosecutor for the State. Perused the papers of investigation.

5. According to the applicants, their names are falsely involved in the present crime, as earlier, similar offences are registered against them. It is submitted that the applicants have stopped said business of supplying contraband articles and have started new business. In a raid, conducted in the premises of the applicants, nothing incriminating is found. It is further submitted that charge sheet is already filed against accused No.1 to 4 and therefore, custody of the applicants is not necessary.

6. Learned Additional Public Prosecutor, on the other hand, strenuously opposed the application submitting that the applicants are absconding since the date of registration of

offence. Previously, five similar offences are registered against the applicants. Applicants are main dealers, who supply contraband articles throughout the State of Maharashtra. In the charge sheet, the applicants are shown as absconding accused. Their custody is necessary for effective investigation.

7. Sufficient material is collected against the applicants during the investigation to show that they are dealing in banned contraband articles.

8. Following offences are registered against applicant No.1 :

(I) Crime No. 115 of 2023 registered with Bhusawal Police Station for offence punishable under section 328, 188, 34 of the Indian Penal Code and u/s 3-1 zz-v, 26-2-I, 26-2-iv, 27-3-3, 30-2-a, 26-2-v Food and Safety Standards Act.

(ii) Case Code No. 203018004142014 pending in Jalgaon Court for offence punishable under section 328, read with 34 of the Indian Penal Code.

(iii) MHJG 08000271-2015 of Bhusawal Bazar Peth Police Station for offence punishable u/s 3, 1, 7, 59, 26 (2) (4) of the Food Safety and Stanrds Act.

(iv) MHJG 04-002534-2013 pending in Jalgaon Court for

offence punishable under section 328 read with 34 of the Indian Penal Code

(v) MHJG 06-005045-2019 of Jalgaon Court for offence punishable under section 26, 30, 27 of the Food Safety and Standards Act.

9. Following offences are registered against applicant No.2 :

(i) Crime No. 157/2021 registered with Pimpaldari Police Station, District – Parbhani for offences punishable under section 188, 272, 328, 34 of the Indian Penal Code and u/s 26 (2), (6), 27, 23, 30 (2), 59 (6), 59 of the Food Safety and Standards Act.

(ii) MHJG 06-005054-2019 pending in Jalgaon Court for offence punishable under section 26, 30, 27 of the Food Safety and Standards Act.

(iii) MHJG 06-001289-2018 pending in Jalgaon Court for offence punishable under sections 26 (2), 27, 3(E), 26, 2, 3, 1 ZZV, 30, 2, 3, 1, 7 of the Food Safety and Standards Act.

(iv) MHJF 21000796-2019 in Yawal Court for offence punishable under sections, 26 (20 (I) 3 (1) (ZZ) (V), 30

(2) A 27, (3) (#) (d), 26 (20 (V), 2, 3, 4 of the Food Safety and Standards Act and u/s 3 and 17 of Prevention of Food Adulteration Act.

(v) MHJG 06-005840-2019 pending in Jalgaon Court for offence punishable under section 26, 27, 30 of the Food Safety and Standards Act.

10. *Prima facie*, there appears substance in the contention of the prosecution that the applicants are the main dealers, at the State level, who are supplying contraband articles through the Maharashtra. Custodial interrogation of the applicants is necessary for effective investigation and the burst the racket, which deals in sale, purchase, distribution and stoking of contraband articles, which are banned in the State of Maharashtra. There is sufficient material on record to show involvement of the applicants in the present crime. Considering their criminal antecedents, I am not inclined to grant discretionary relief of anticipatory bail to the applicants.

11. In the result, the application is rejected.

[NITIN B. SURYAWANSHI]
JUDGE