

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 380 OF 2023

Smt. Mahalaxmi w/o M. Suresh Applicant

Versus

The State of Maharashtra Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 382 OF 2023

M. Suresh s/o M. Venkata Ramappa Morimsetty Applicant

Versus

The State of Maharashtra Respondent

Mr. S. S. Rathi, Advocate for the applicants.
Mr. S. P. Sonpawale, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 9th JUNE, 2023.

PER COURT :

1. Applicants are apprehending arrest in connection with Crime No. 0227/2021 registered with Murud Police Station, Dist. Latur, for the offences punishable under Sections 420, 467, 406, 120-B read with Section 34 of the Indian Penal Code.

2. It is admitted fact that investigation into the crime is complete with filing of the charge-sheet being RCC No. 2018/2021 on 3rd December, 2021. Present applicants apprehend arrest on the basis of the alleged statement made by the absconding co-accused in the said offence.

3. It is the contention of the applicants that there is no agreement between the applicants and the sugar factory for purchase of sugar for the purpose of its export. It is contended that agreement dated 30th August, 2022 is entered into by Vilas Sahakari Sakhar Karkhana Ltd. with M/s Kurinjee Pronatural Foods Pvt. Ltd. There was a condition that the purchaser would export the said sugar and on that account, subsidy would be received by the sugar factory from the Central Government. It is further contended by learned counsel for the applicants that the allegations against the applicants are that they have purchased sugar from the said company. He further states that even if the said allegation is accepted to be true, no offence can be said to have been committed by the present applicants for want of any contract with the sugar factory. It is further contended that there is absolutely no evidence on record to connect the present applicants with the crime in question.

4. Learned APP opposed the application by referring the statement of Mohd. Shahid, who is one of the purchasers of sugar from the said company, in order to support his argument that the present applicants are the purchasers of sugar from the company with home sugar factory had contracted. He also drew attention of the Court to the Notification dated 12th September, 2019, issued by the Central Government.

5. Perusal of the First Information Report indicates that the allegations against the abovestated company is that instead of exporting sugar purchased from the sugar factory, the same was sold in open market and that the present applicants and others are alleged purchasers of the said sugar. Though there is document on record to show that the contract was between the sugar factory and the said company but there is nothing on record to indicate that there was any restriction for the applicants to purchase sugar from said company. Apart from this, it is pertinent to note that the dispute does not pertain to non-payment of the value of sugar sold by the sugar factory to the said company, but it relates to the claim of the factory for subsidy of Rs. 8,00,00,000/- which would have been received by the factory if the sugar was exported by the said

purchasers. Record further indicates that in respect of said subsidy, cheque was issued by the said company which came to be dishonoured and the proceedings under Negotiable Instruments Act are already filed.

6. Learned App has also opposed the application on the ground that applicants were absconding for substantial period of time. When it was asked to point out as to what steps were taken to show that they were declared absconding at any point of time, he was unable to point the same from the charge-sheet. Infact, there is nothing on record to indicate that the applicants were absconding. Their apprehension of arrest is only on the basis of statement of the co-accused who came to be arrested subsequent in time. Thus, it does not become a ground for rejection of anticipatory bail application.

7. Having regard to the aforesaid facts and circumstances, it is not a fit case wherein custodial interrogation of the applicants is necessary. If any further investigation under Section 173(8) of the Code of Criminal Procedure is to be done, it is open for the Investigating Officer to call upon the applicants to remain present.

Imposition of appropriate conditions would be sufficient for such further investigation done, if any.

8. In view of above, both the applications are allowed with following conditions :-

ORDER

- (i) Applications are allowed.
- (ii) In the event of arrest of applicants in connection with Crime No. 0227/2021 registered with Murud Police Station, Dist. Latur, for the offences punishable under Sections 420, 467, 406, 120-B read with Section 34 of the Indian Penal Code, they be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each with one solvent surety each in the like amount.
- (iii) They shall attend the concerned police station as and when called with written intimation.
- (iv) They shall not contact the witnesses directly or indirectly.
- (v) They shall not interfere with the evidence in any manner whatsoever.

(vi) They are further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI)
Judge

dyb