



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.544 OF 2023

LATIF S/O IBRAHIM PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. V.D. Sapkal, Sr. Advocate i/b Mr. S.R. Sapkal, Advocate for
Applicant
Mr. S.B. Jadhav, APP for Respondents – State
Mr. R.O Awasarmol, Advocate to Assist APP
...

ANTICIPATORY BAIL APPLICATION NO.1211 OF 2023

SARANG BHIKUSING CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Dhananjay M. Shinde, Advocate for Applicant
Mr. S.B. Jadhav, APP for Respondents – State
Mr. R.O Awasarmol, Advocate to Assist APP
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 17th January, 2024

ORDER :

1. Applicants in both the applications apprehend arrest in Crime No.108/2023, registered with Sengaoon Police Station, Hingoli, for offence punishable under Sections 420, 409, 468, 471 r/w 34 of the Indian Penal Code and Sections 3 and 7 of Essential Commodities Act, 1955.

2. Latif Ibrahim Pathan, applicant in Anticipatory Bail Application No.544/2023, is working as District Supply Officer at Hingoli. Sarang Bhikusing Chavan applicant in Anticipatory Bail

Application No.1211/2023 is Tahsildar, who has worked at Sengaon Tahsil Office till February, 2014 as In-charge Tahsildar.

3. FIR is registered on the basis of private complaint of Vijay Raut, Advocate. Prosecution case in short is that informant Vijay Raut, Advocate is worker of Prahar Janashakti Party. From the information he got under Right to Information Act, he found that District Supply Officer, Tahsildar, Government Servants of Tahsil Office, Sengaon, as well as concerned staff of Tahsil Office and staff working at Government godown made conspiracy with the persons who were related to demand and distribution of food grains to fair price shops in various schemes. Serious irregularities were made in distributing excess quota of essential commodities like wheat, rice, etc. to certain fair price shop owners during the period between 2014 to 2017. Though fair price shops owners deposited less amount, they were allotted more food grains. Government officers erased some entries regarding name of fair price shop owners and quantity of food grains supplied to them. More quantity of grains was supplied to them than the permit which was issued to fair price shop owners. In audit report irregularities were pointed out. Due to irregularities and negligence of concerned staff loss was caused to the Government.

3. Heard learned Senior Advocate and learned Advocate for applicants, learned Additional Public Prosecutor for State and

learned advocate to assist learned APP. Perused the investigation papers.

4. Learned Senior Advocate for applicant Latif Pathan submits that, as per Government of Maharashtra Food and Civil Supply Department, Manual of instructions to godown keepers and godown Managers and Manual of Food Account, it is responsibility of Tahsildar and Nayab Tahsildar to maintain Unit Registered, issue correct quantity permits and deposit cash in Government Treasury and keep all records updated of all fair price shop in taluka and godown. It is responsibility of concerned inspection officer to inspect godown carefully and if any irregularity is found then inspection officer is to take effective steps in that behalf. District supply officer is to issue orders for distribution according to units assigned Taluka wise, to make payments to Food Corporation of India, to get the food grains transported through transporters, to pay the transporters, to issue licence for fair price shops, renewal of those license, to prepare roster for godown inspections, get inspections done through various officers get their reports, after receipt of said reports forward them to Tahsildar for further action, to inquire complaints against fair price shop owners, to get auditors report and send it to concerned Tahsildar for further action. Therefore, it is his case that it is not his duty to verify and distribute food grains or essential commodities at Taluka level and it is the duty of Tahsildar

or Naib Tahsildar.

5. Applicant Latif Ibrahim Pathan has from time to time made correspondence with Tahsildar in respect of excess quantity supplied to fair price shop owners and he has no role to play in the alleged offence. Applicant is innocent and is falsely implicated in the offence.

6. Learned Additional Public Prosecutor on the basis of investigation papers submits that applicant Latif Pathan has not produced audit report submitted to him. His custody is, therefore, necessary for recovery of said audit report. It is further contended that applicant Latif Pathan has failed to take effective steps on the report dated 12/06/2015 of the inspection team and also on inspection report of Tahsildar, Sengaon, dated 17/04/2017. When there are serious irregularities at Tahsil level, it is the duty of District Supply Officer to effectively supervise and control the same. These irregularities are occurring since 2014 onwards. There is total lack of effective control of District Supply Officer and Tahsildar on the subordinates and they have failed to take proper steps in that behalf.

7. Applicant Pathan has placed on record correspondence made by him with Tahsildar from time to time in respect of excess quantity distributed to fair price shops. He has even appointed

Committee of five members headed by Tahsildar, Sengaon, vide order dated 11/05/2015 to inquiry into the excess quantity of food grains distribution, mentioned in report dated 12/06/2015 and asked the Committee to submit it's report by 25/05/2015. Tahsildar, Sengaon, appears to have forwarded the report of said inquiry directly to the Collector. No such report was submitted to the applicant Latif Pathan. He has issued reminders / show-cause notices to the said Committee on 11/05/2015, 29/05/2018, 13/07/2015, 31/08/2015, 24/09/2015, 18/11/2015, 16/02/2016, 15/06/2016, 05/10/2016, 25/05/2017, 13/10/2017 and 25/10/2017. It is also mentioned in the said Communication that report dated 12/06/2015 is not received by the office of applicant Pathan. As per the report dated 12/06/2015, 5903.82 Quintal wheat and 2383.89 Qunital rice was distributed in excess and responsibility to be fixed on Tahsildar, Nayab Tahsildar (Supply), Awal Karkoon, Clerk and godown keeper, who are responsible for the said irregularities and departmental action was proposed against them and report be submitted to the Collector. Show-cause notice / communications addressed to Tahsildar by applicant shows that relevant record of the said report was not made available by the Tahsil Office.

8. Taking into consideration the duty of District Supply Officer, there appears substance in the contention of applicant Latif that he has taken effective steps from time to time to inquiry into

irregularities and distributing food grains than permit. Applicant further submits that 23 fair price shop owners have paid the amount of excess grains received by them and 14 fair price shop owners have deposited part amount, whereas 18 shopkeepers have not deposited the amount of excess food grains received by them. Fair price shop owners approached Deputy Commissioner (Supply) challenging orders of recovery passed against them for lifting excess quota than permitted. The Commissioner set aside the orders of recovery passed against fair price shop owners and the matter is remitted back to District Supply Officer and Tahsildar for appropriate action to be taken after verifying the record.

9. Considering these peculiar facts there appears substance in the contention of applicant Pathan that he is not involved in alleged commission of offence. On the contrary from time to time he has taken effective steps to look into the matter. Applicant is Government Servant and is not likely to flee from justice. Applicant is, however duty bound to assist investigating agency by producing documents which are in his custody, asked by investigating agency, which necessary for investigation purposes.

10. Applicant Sarang Chavan, the then Tahsildar, submits that he was working as in-charge Tahsildar, Sengaon, only for a period of two months, between January, 2014 to February, 2014. In that view of the matter, he cannot be said to be involved in

commission of alleged offence and no document is in his custody now.

11. Investigation pertains to documents, most of which are already seized by investigating officer. Whatever documents investigating officer needs from applicant Latif Pathan, he shall produce them within a period of two weeks from the date of uploading of this order.

12. In the result, both applications are allowed.

13. In the event of arrest of applicant Latif Ibrahim Pathan and applicant Sarang Bhikusing Chavan in connection with Crime No.108/2023, registered with Sengaoon Police Station, Hingoli, for offence punishable under Sections 420, 409, 468, 471 r/w 34 of the Indian Penal Code and Sections 3 and 7 of Essential Commodities Act, 1955, applicants be released on executing P.B. and S.B. of Rs.15,000/- each with one surety in the like amount.

14. Till filing of charge-sheet applicants shall attend concerned police station on every second Sunday of each month, between 10:00 a.m. to 12:00 p.m. and co-operate in the investigation. Applicants shall not tamper prosecution evidence.

(NITIN B. SURYAWANSHI, J.)