



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

945 ANTICIPATORY BAIL APPLICATION NO. 1543 OF 2024

1. Bhavikumar Manubhai Patel
2. Dhruv Bhadreshbhai Thakkar ...Applicants

VERSUS

The State of Maharashtra & anotherRespondents

.....

Mr. R. D. Sanap, Advocate holding for Mr. R. V. Naiknavare, Advocate
for Applicants.

Mr. P. P. Dawalkar, APP for the State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1545 OF 2024

Dineshkumar Shambhubhai Ramanna Applicants

VERSUS

The State of Maharashtra & anotherRespondents

.....

Mr. R. D. Sanap, Advocate holding for Mr. R. V. Naiknavare, Advocate
for Applicants.

Mr. P. P. Dawalkar, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 18th OCTOBER, 2024.

PER COURT :

1. Leave to amend.

2. Applicants apprehend arrest in connection with Crime No. 0316/2024, registered with Tuljapur Police Station, Dist.Osmanabad for the offences punishable under Sections 3(2)(A), 3(2)(D), 7, 5, 9 and 19 of the Essential Commodities Act and Sections 5, 7, 19(C)(2), 21 Clause 8(3) of the Fertilizer Control Order, 1985 and Section 318(4), 336(2), 336(3) of the Bharatiya Nyaya Sanhita.

3. First informant is Taluka Agricultural Officer, Tuljapur, Dist. Osmanabad. On 18.07.2024, when he was proceeding from Nilwade to Tuljapur, he came across with one truck in which the fertilizers were transported. Since he had suspicion for the same, he stopped the said vehicle. It is found that there were about 598 bags of fertilizer which is banned in the State of Maharashtra. Manufacturing of the said fertilizer is found to have been done in the State of Gujrat.

4. Learned counsel for Applicants submits that though the fertilizer which is seized is banned in the State of Maharashtra, there is no embargo to manufacture and sell the said fertilizer in the State of Gujrat. Learned APP on instructions from the Investigating Officer confirms the said fact. Learned counsel for Applicants submits that

even if it is accepted that manufacture and storage of the said fertilizer has been done by the present Applicants, there is no evidence to show that the Applicants themselves have brought the said fertilizer for sale in the State of Maharashtra.

5. Learned APP opposed the said submission by considering the statement of godown keeper who claims that the present Applicants used to sell the said fertilizer in other states as well as in the State of Gujrat. It is his submission that it is not a case of anticipatory bail.

6. Even if the contention of the first informant is accepted that the fertilizer which was being transported is banned in the State of Maharashtra, as far as present Applicants are concerned, from the material evidence on record, it may only be found that they were ever manufacturing or storing the said fertilizer in the godown situated in the State of Gujrat. Thus, manufacturing and storage of said fertilizer in the State of Gujrat can never be treated as an offence. There is nothing on record to indicate that the present Applicants had brought the said fertilizer for sale in the State of Maharashtra.

Having regard to these facts, it is a fit case to protect liberty of the Applicants. Hence, the following order :-

ORDER

- (i) Both the applications are allowed.
- (ii) In the event of arrest of applicants in connection with No. 0316/2024, registered with Tuljapur Police Station, Dist.Osmanabad for the offences punishable under Sections 3(2)(A), 3(2)(D), 7, 5, 9 and 19 of the Essential Commodities Act and Sections 5, 7, 19(C)(2), 21 Clause 8(3) of the Fertilizer Control Order, 1985 and Section 318(4), 336(2), 336(3) of the Bharatiya Nyaya Sanhita, they be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each with one surety each in the like amount.
- (iii) They shall attend the concerned police station once in a week.
- (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.

(vii) Learned APP to communicate this order to the concerned Investigating Officer.

(R. M. JOSHI)
Judge

dyb