

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1995 OF 2024

Nitin Pandurang Narale

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Raja Thakare, Senior Counsel i/b Mr. Akash Kavade, for Applicant.
- Mr. R. M. Pethe, APP for Respondent.
- Mr. P. S. More, ASI, Sangola Police Station.

CORAM : MANISH PITALE, J.

DATE : 07th August, 2024.

P. C. :

1. Heard, Mr. Raja Thakare, learned senior counsel appearing for the applicant and Mr. R.M. Pethe, learned APP for the respondent – State.

2. The applicant is apprehending arrest in connection with First Information Report No.0190 of 2024, dated 02.03.2024, registered at Police Station Sangola, District Solapur, for the offences under Sections 304, 436, 337, 338, 285, 286, 420, 511, 201, 120-B read with Section 34 of the Indian Penal Code (IPC) and Sections 3, 4 and 6 of the Explosive Substance Act.

3. The present case concerns an explosion that took place in a godown, which resulted in the death of 2 persons. The 2 persons who died are related to the co-accused Rameshwar Baad. It is relevant to note that when the FIR was registered, the 3 persons named as accused were the co-accused Rameshwar and his 2 relatives i.e. Atul Baad and Dipak Kute. The named co-

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accused persons are the very persons who perished in the said explosion, which took place in the godown.

4. On the statement of the wife of the said Atul Baad, an ADR under Section 174 of the Code of Criminal Procedure (Cr.P.C.) was registered in respect of the aforesaid incident. She claimed that her husband i.e. Atul Baad had received a phone call from co-accused Rameshwar Baad asking her husband to immediately come to the godown where the explosion was planned.

5. During the course of investigation, the investigating authority arraigned the applicant also as an accused, on the basis that he was part of the conspiracy to blow up the godown in order to subsequently claim insurance amount on the basis of the insurance policies taken out in respect of the godown and the material stored in the godown (tyres).

6. The learned senior counsel appearing for the applicant submits that the theory of conspiracy is essentially based on memorandum of co-accused Rameshwar Baad executed under Section 27 of the Evidence Act and no other supporting material. It is submitted that as per settled law contents of the aforesaid memorandum cannot be looked at. Reference is made to the material on record, including statements of witnesses recorded during the investigation and it is contended that even if the said material, which now

forms part of the charge-sheet is taken into consideration, there is nothing to link the applicant with the incident in question. Attention of this Court is invited to an insurance policy taken out by the applicant on 13.06.2023 concerning the said godown, wherein it is recorded that the godown was already mortgaged to a bank. It is emphasized that the said policy was vogue when the incident took place and there was no reason for the applicant to have taken any further insurance policies in respect of the said godown. In that regard attention of this Court is invited to 2 insurance policies, both taken out on 14.02.2023, ostensibly in the name of the applicant although the contact number and the e-mail id was that of co-accused Rameshwar Baad. It was emphasized that the aforesaid material indicated that without the knowledge and behind the back of the applicant the co-accused Rameshwar Baad may have devised the aforesaid *modus operandi* in order to seek financial advantage. On this basis, it is submitted that since the applicant is ready to co-operate with the investigation, this Court may allow the present application.

7. On the other hand, learned APP vehemently opposed the present application. He submitted that at the stage of considering the anticipatory bail application, this Court could look at the contents of the aforesaid memorandum. Emphasis was placed on the statements of the witnesses, including the person from whom solvent cement solution, used to cause the explosion, was purchased. Reference was also made to statement of another

witness, who claimed that the applicant had come along with co-accused Rameshwar Baad for asking the said witness to arrange for the aforesaid solvent cement solution at a reasonable rate. It was further submitted that the whole conspiracy was hatched by the applicant along with the co-accused persons so as to cause the explosion and damage to the godown and the material kept therein and thereafter to claim insurance amounts and then to share the booty. On this basis, it was submitted that this application may be dismissed.

8. It is relevant to note that during the course of arguments, the learned senior counsel appearing for the applicant tendered copies of statements of deceased co-accused Dipak Kute recorded in the aforesaid ADR registered under Section 174 of the Cr.P.C. Relying on the contents of the said statements, the learned senior counsel indicated the contradictions with the contents of the aforesaid memorandum. On this basis, it was highlighted that there was no question of any involvement of the applicant in the alleged conspiracy. The copies of statements of the deceased tendered by the learned senior counsel for the applicant are taken on record and marked "X" for identification.

9. This Court has considered the entire material on record in the light of the rival submissions. This Court is inclined to allow the present application for the following reasons :

- (i) Reliance is heavily placed by the learned APP on the aforesaid memorandum and the contents thereof. Despite the fact that the contents thereof cannot be looked at by the Court as per settled law, the same were taken into consideration along with the other material. The statements of the deceased co-accused, copies of which were tendered across the bar, demonstrate that the said person nowhere took the name of the applicant while describing the chain of events, leading to the aforesaid incident. This is in stark contradiction to the claims made by the co-accused Rameshwar Baad in his memorandum, where he stated that the said deceased Dipak Kute was introduced to the applicant, and that an amount of ₹50,000/- allegedly exchanged hands in the presence of the said deceased Dipak Kute. The aforesaid contradiction at this stage *prima facie* does lend credence to the contentions raised on behalf of the applicant.
- (ii) In the very memorandum, it is claimed that an amount of ₹ 1,00,000/- was transferred by the applicant into the account of co-accused Rameshwar Baad. In the entire material placed on record along with the charge-sheet,

there is nothing to indicate any such transfer of amount from the applicant into the account of co-accused Rameshwar Baad.

- (iii) The applicant had already taken an insurance policy on 13.06.2023 in respect of the said godown, which was mortgaged to a bank. The said policy was very much in vogue when the incident took place. The insured sum was of ₹ 50,00,000/-. The other 2 insurance policies, which also formed the bedrock of conspiracy alleged in the present case, demonstrate that the contact number and e-mail id on the said policies were that of co-accused Rameshwar Baad. The said policies read along with the statement of the employee of the insurance company shows that although the policies appear to have been issued in the name of the applicant, it was only co-accused Rameshwar Baad, who was in touch with the said witness i.e. the employee of the insurance company. This bolsters the contentions raised on behalf of the applicant.
- (iv) The statement on which the learned APP has placed much emphasis is that of the aforesaid witness, who claimed that the applicant visited along with the co-accused

Rameshwar Baad and asked the said witness to provide solvent cement solution at a reasonable rate. At this stage, the aforementioned statement of the witness in itself *prima facie* does not appear to indicate direct involvement of the applicant in the alleged conspiracy, although the investigating authority is claiming that the applicant himself was the mastermind behind the conspiracy.

10. For the aforesaid reasons, the application is allowed in the following terms :

(A) In the event the applicant is arrested in connection with FIR No.0190 of 2024, dated 02.03.2024, registered at Police Station Sangola, District Solapur, for the offences under Sections 304, 436, 337, 338, 285, 286, 420, 511, 201, 120-B read with Section 34 of the Indian Penal Code (IPC) and Sections 3, 4 and 6 of the Explosive Substance Act, he shall be released on bail on furnishing P.R. Bond of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the Trial Court.

(B) The applicant shall remain present before the Investigating Officer on 09th August, 2024 between 10:00 a.m. and 12:00 noon and thereafter as and when called by

the Investigating Officer. He shall cooperate with the investigation.

(C) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

(D) The applicant shall cooperate with the proceedings in the Trial Court and he shall remain present before the Trial Court on each and every date, except when specifically exempted by the Trial Court.

11. Needless to say, violation of any of the aforesaid conditions may lead to cancellation of the present order.

12. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The application is disposed of.

(MANISH PITALE, J.)