

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

CR. ANTICIPATORY BAIL APPLICATION NO. 288 OF 2024

Bandu Suresh Lokhande

..Applicant

Versus

State Of Maharashtra

...Respondent

Adv. Piyush Toshnival i/b. Adv. Pratik Kalantri for the Applicant.
Smt. M. H. Mhatre, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J

DATED : 1st FEBRUARY, 2024

P.C.:

1. The Applicant is seeking anticipatory bail in connection with C. R. No. 230 of 2023 registered at Peth Police Station, Nashik Rural, Nashik dated 29/12/2023 u/s. 407 and 182 of the Indian Penal Code.
2. Heard Mr. Toshnival, learned counsel for the Applicant and Smt. Mhatre, learned APP for the Respondent-State.
3. The FIR is lodged by one Minsibhai Pithia. He has stated that he is in the business of peanuts. On 15/12/2023 at 6.30PM the present Applicant, who was a driver on the truck no. MH-24-AU-8829 started from Sondarda, Gujarat to Solapur. The truck was carrying 620 bags of peanuts. Each of the bag was weighting around 50 Kg. The total value of the goods was Rs.33,10,661/-.

The truck was supposed to reach Solapur on 18/12/2023 but it did not reach till 19/12/2023. The trader, who was to receive those goods called the informant on 19/12/2023 and told him that he had not received those bags. The informant contacted the owner of the transport company. The truck owner Dnyaneswar Waghmare was called telephonically by the informant. He informed that the truck had met with an accident and all the peanuts had fallen down. The villagers had taken the goods away and had misappropriated them. On 20/12/2023 the informant and other reached Peth where the incident had taken place. The spot of the incident was near a ghat. The truck was seen in damaged condition on the side of the road but there were no signs of any peanuts. The informant was convinced that the Applicant had sold the goods and had made a show of truck having met with an accident. On this basis, the FIR is lodged.

4. Learned Counsel for the Applicant submitted that it was the case of an accident. The Applicant himself had informed the Peth Police Station about the accident. The said information was registered in the General Diary vide Motor Accident Registration No 05/2023. It was mentioned in the information that the accident had taken place at around 03.30AM on 17/12/2023 in the Kotambi

Ghat. The truck had fallen in a valley. Learned Counsel for the Applicant therefore submitted that the Applicant has not misappropriated the goods. They were stolen by the villagers. On this basis he seeks protection u/s. 438 of Cr.P.C.

5. Learned APP has produced the investigation papers, which contains the photographs of the damaged truck. The truck had fallen in a secluded place. The photographs show that the truck was extensively damaged. In that case, it was not possible that the Applicant could have survived without any serious injuries. There is nothing to show that any village was nearby from where the villagers could come there and take away 620 heavy bags. Therefore, at this stage there is sufficient material against the present Applicant to infer that the Applicant had already sold the goods before the truck had fallen in the valley. There is a strong possibility that the Applicant had arranged the things so that the truck would fall on the slope. All these require the custodial interrogation of the Applicant. There was no sign of any bags or any peanuts having spread near the truck. Considering all these suspicious circumstances, which are incriminating against the Applicant, the custodial interrogation of the Applicant is necessary.

6. Learned Counsel for the Applicant submitted that there is

delay of 11 days in lodging the FIR. There is no force in the submission of learned Counsel for the Applicant regarding delay in lodging the FIR. The FIR was lodged by the informant after making due inquiries with the police. No case for protection u/s. 438 of Cr.P.C is made out.

7. The Application is rejected.

(SARANG V. KOTWAL, J.)