

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

ANTICIPATORY BAIL APPLICATION NO.491 OF 2024

Kailas Nilkanth Patil

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. Nitin Gaware Patil, Advocate for Applicant.
- Ms. Mahalakshmi Ganapathy, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st FEBRUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.298/2023, dated 17/12/2023, registered with Pimpalgaon Police Station, Nashik Rural, under sections 328, 272, 273, 188 r/w 34 of the Indian Penal Code.

2. Heard Mr. Nitin Gaware Patil, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

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3. The FIR is lodged by Police Constable Pramod Mandlik. He has stated that they had formed a special task force to find out unauthorized businesses in Nashik. On 16/12/2023, in the night, they received an information that one vehicle bearing No.MH-48-CB-8936 was transporting prohibited food articles from Pimpalgaon towards Jalgaon. The police therefore prepared to conduct a raid. Accordingly, at about 10.30 p.m., the said vehicle was seen coming from Nashik towards Pimpalgaon Toll Plaza. The police intercepted that vehicle. It was driven by one Shubham Pawar. They searched that vehicle. The driver Shubham told the police that the present Applicant had given those prohibited food articles for transporting. The vehicle was loaded at Takali Road in the office of Usha Transport and it was to be transported to the office of the same Usha Transport at Jalgaon. The search of the vehicle revealed that there were many cotton bags containing packets of Panmasala, chewing tobacco etc. worth more than Rs.2.40 lakhs. There were other miscellaneous items used for agricultural purposes. The prohibited goods were seized. The samples were drawn. The FIR was lodged.

4. Learned counsel for the Applicant submitted that the driver Shubham was involved in another similar offence which was registered at Mohadi police station, District Dhule vide C.R.No.1162/2022. The said offence was similar in nature. He therefore submitted that said Shubham was the real culprit and he has named the present Applicant to save himself and his uncle, who was into the said business of transport. He submitted that there is a strong possibility of false implication of the present Applicant. He may be protected u/s 438 of Cr.P.C. Learned counsel for the Applicant submitted that the Applicant is not concerned with Usha Transport.

5. Learned APP opposed these submissions. She referred to two statements recorded during the investigation. One of the statements is of one Manoj Patil. He has stated that he was the Manager of Usha Transport, Aurangabad Road Nasik. The said office belonged to the said Applicant and according to the Applicant's instructions, he used to prepare bills, verified the transported goods and generally supervised the transport of

goods to Nashik city. The present Applicant was a distant relative of this witness Manoj Patil. After the registration of the present offence, the Applicant was not available.

6. Learned APP then relied on the statement of one Kishor Pawar. He was the uncle of Shubham Pawar. He has stated that the vehicle which was involved in this offence, was purchased by him. But the formalities of documentation were still remaining. The vehicle was in the possession of Shubham Pawar and that this witness was using it for his transport business. He has stated that on 16/12/2023, they had repaired the said vehicle and had come back to their office of Mauli Transport at about 04.30 p.m. After that, he had called the present Applicant and had asked whether he had any goods to be transported to Dhule or Jalgaon. At that time, the Applicant had told this witness that he had some articles to be taken to Jalgaon to their office in Jalgaon. He had told this witness that he would send the bill on WhatsApp subsequently. Accordingly, this witness had instructed Shubham to load that vehicle at Ambad at the office of Usha

Transport. Thereafter the goods were loaded. The same vehicle was intercepted by the police.

7. I have considered these submissions. The investigation carried out so far shows the complicity of the present Applicant in the offence. The witness Manoj Patil and Kishor Pawar have specifically explained the role of the present Applicant. It is in conformity of the statement made in the FIR that Shubham Pawar had also narrated about the Applicant's role. The seized food articles were worth more than Rs.2.40 lakhs. The offence is serious. The custodial interrogation of the Applicant is necessary to find out the details of this particular offence and to find out whether any similar offences were committed by him in the past. Therefore, no case for protection u/s 438 of Cr.P.C. is made out. The application is rejected.

(SARANG V. KOTWAL, J.)