

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

Anticipatory Bail Application No.1688 of 2024

Mr Suman Indra Mohan Jha
Age- 45 years, Occ – Business,
Current R/at- 114-115 Ambika Park Society,
Near Rami Park, Dindoli, Surat City,
Gujarat-394210 ... Applicant No.1

Mr Rakesh Kumar Krishnakant Jha
Age- 39 years, Occ – Service,
Current R/at- 147, Maa Krupa Residency,
Deladva Road, Dindoli, Surat City,
Gujarat-394210 ... Applicant No.2

v/s.
The State of Maharashtra
Thane Nagar Police Station ... Respondent

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Mr Nehal Deshale, for the Applicants.
Ms Mahalaxmi Ganapathy, APP, for Respondent State.
PSI Ananda Bhilare, Thane Crime Branch is present.

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Coram : R.N. Laddha, J.
Date : 25 June 2024

P.C. :

The applicants are apprehending their arrest in connection with CR No.383 of 2024, registered at Thane Nagar Police Station, Thane City, accusing them of committing offences punishable under Sections 272, 273, 328 read with 34 of the Indian Penal Code, and Sections 26(2), 27, 23, 26(2)(iv), 30(2)(a) and 59 of the Food Safety and Standards Act, 2006. The applicants have approached this Court seeking anticipatory bail.

2. The prosecution alleges that a tempo was intercepted and searched at Thane after receiving secret information. The inspection revealed that the tempo was carrying contraband, particularly the prohibited gutkha, scented tobacco, and pan masala valued at Rs.26,86,534/-. These banned items were intended to be sold by the applicants and other co-accused in Mumbai.

3. I have heard Mr Nehal Deshale, the learned Counsel for the applicants, and Ms Mahalaxmi Ganapathy, the learned Additional Public Prosecutor for the respondent/ State.

4. Mr Nehal Deshale, the learned Counsel representing the applicants, asserts that the applicants are falsely implicated in the present crime based on the co-accused's statement. He submits that the applicants are engaged in the transportation business and received an order from co-accused Loknath, who is engaged in the textile business, to supply clothes from Surat to Mumbai. On receipt of the goods' bills, the applicants agreed to deliver the clothes. The learned Counsel states that the co-accused, Ramkirat Yadav, was required to communicate with the applicants in the capacity of a driver of their vehicle for transporting the goods. The applicants were unaware of the transportation of the alleged prohibited items by co-accused. The applicants are not named in

the FIR and have no criminal antecedents. He points out that both the co-accused have already been enlarged on bail, and the banned items have been seized. In these circumstances, the applicants' custodial interrogation is not necessary.

5. On the other hand, Ms Mahalaxmi Ganapathy, the learned Additional Public Prosecutor, representing the respondent/ State, submits that the co-accused disclosed the applicants' names and stated that the prohibited items were transported to Mumbai at their instance. The learned APP places reliance on the Call Detail Records (CDRs) to contend that several calls were exchanged between the co-accused Ramkirat Yadav and the applicants. She asserts that the offence is serious, and to uncover the entire transaction chain, the applicants' custody is necessary to identify the manufacturers, distributors, sellers, and shopkeepers. The learned APP further submits that if the applicants are enlarged on bail, they may tamper with the prosecution evidence/ witnesses.

6. Upon perusing the record, it *prima facie* appears that there is no material linking the applicants to the present crime except the statements of the co-accused. Admittedly, the applicants are engaged in the transportation business and run it under the name and style of 'Jagdamba Cargo Service'. The seized tempo is owned by applicant No.1 and used to transport goods upon

receipt of an order. The co-accused, Ramkirat Yadav, is the driver of the seized tempo. The consignment receipts indicates that goods were to be delivered from Tara Synthetics and Priya Fabrics in Surat to Rubi Cloth Store in Mumbai. However, there is nothing on record to suggest that the applicants knowingly transported the prohibited items under the guise of legitimate deliveries. The calls exchanged between the co-accused Ramkirat Yadav, the driver and the applicants' employee, and the applicants over the past year do not establish their knowledge of transporting the prohibited articles in their tempo. The applicants have no criminal antecedents. The prohibited items have been seized, and the co-accused, who implicated the applicants in the crime, have already been enlarged on bail. Moreover, the co-accused Loknath, at whose instance the transportation service was availed from the applicants, was also released on bail. The prosecution's apprehension about tampering with the evidence/witnesses can be addressed by imposing appropriate conditions. Considering these circumstances, this Court is inclined to exercise its discretion in favour of the applicants. Accordingly, the application stands allowed in the following terms:

- (i) In the event the applicants are arrested in connection with CR No.383 of 2024, registered at Thane Nagar Police Station, Thane City, they shall be released on

bail on furnishing a PR Bond of Rs.25,000/- each, with one or more sureties in the like amount.

- (ii) The applicants shall attend the concerned Police Station as and when required.
- (iii) The applicants, themselves or through any other person, shall not indulge in any activity that would tamper with the evidence or influence any witnesses.

7. It is made clear that the above observations are *prima facie* in nature and made only for the purpose of deciding the present anticipatory bail application of the applicants, and the trial Court shall not be influenced with the same during the trial.

(R.N. Laddha, J.)