

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

Anticipatory Bail Application No. 1848 of 2024

Mihir Shashikanth Trivedi

Age 38 years, Occ. Business,

Director of – Activentis Biotech

Pvt. Ltd. Having its address at

Flat No.1302, Phase II, Laabh

Enclave, 'C' Wing, 13th Floor,

Kalyan Bhiwandi Road, Temghar,

Bhiwandi, Dist.- Thane – 421 302.

... Applicant

Vs.

The State of Maharashtra

Through Thane Nagar Police Station ... Respondent

Mr Jeetendra Solanki a/w. Ms Shweta Kadam, for the applicant.

Ms Rajeshree Newton, APP, for the respondent/ State.

PSI Deepak S Dummalwad, Thane Nagar Police Station, Thane City, is present.

Coram: R. N. Laddha, J.

Date: 11 July 2024

P.C.

Heard Mr Jeetendra Solanki, the learned Counsel appearing on behalf of the applicant and Ms Rajeshree Newton, the learned Additional Public Prosecutor representing the respondent/ State.

2. By this application, the applicant seeks pre-arrest bail in connection with CR No.556 of 2024, registered at Thane Nagar Police Station, Thane, for the offences punishable under Sections

17 and 18(A) of the Drugs and Cosmetics Act, 1940, and Sections 276, 420, 468, 471 read with 34 of the Indian Penal Code.

3. The prosecution alleges that the examination of MFMOX-LB-625 tablets by the Drug Laboratory, Bandra, revealed that the medicine lacked essential components such as Amoxycillin, Potassium, Clavulanate, and Lactic Acid Bacillus. Further investigation traced the supply chain: Vishal Enterprises obtained the medicine from the applicant's company, Activentis Biotech Pvt Ltd., which had sourced it from M/s Cabhi Generic House in Mira Road, Thane. The supplier, KP Medical Agency in Ladwa, Haryana, was found to be non-existent. Simultaneously, attempts were made to seek explanations from the manufacturer, M/s Mrystal Formulations in Pauri Garhwal, Uttarakhand, but no response was received. These events, coupled with the potential risks posed by this spurious medicine to public health, led to the filing of the present case.

4. Mr Jeetendra Solanki, the learned Counsel appearing on behalf of the applicant, contends that the applicant is innocent and falsely implicated in the present case. According to him, the applicant operates as a medicine wholesaler and has no involvement in medicine production or the creation of fraudulent documents. The learned Counsel further asserts that the applicant fully cooperated with the investigation, providing sale details, and nothing remains to be recovered from him.

5. On the other hand, Ms Rajeshree Newton, the learned Additional Public Prosecutor representing the respondent/ State, contends that the applicant actively participated in the commission of the crime. The investigation revealed that the medicine's manufacturer, M/s Mrystal Formulations, and its distributor, KP Medical Agency, are fictitious entities. The applicant procured this medicine online, bypassing government channels. Subsequently, these medicines were distributed to retail outlets. The learned APP asserts that the laboratory tests confirmed the absence of the drugs listed in the medicine's composition. Additionally, the applicant has criminal antecedents. The learned APP emphasises that the offence is grave and must be dealt with strictly to prevent the proliferation of the medicine within society. The applicant's custodial interrogation is urgent to avoid losing vital links.

6. It is a settled position in law that the power to grant anticipatory bail is extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. A straight jacket formula cannot be applied. While exercising this power, the Court must exercise caution, as granting protection in serious cases could potentially

lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Shrikant Upadhyay & Ors. v. State of Bihar & Anr.*¹

7. The production and sale of bogus medicine is a grave offence against society. If an ailing person unknowingly consumes such medicine, he continues to suffer, often reaching a critical point with no chance of recovery. The well-being of individuals forms the foundation of every society, and the presence of fake drugs in the market jeopardises lives, posing a significant risk to public health. It is imperative to take decisive action to curb any activity related to the manufacturing, distributing, and selling bogus medicine, conducting a thorough investigation with the utmost seriousness.

8. On a perusal of the records, it appears that the spurious drug, MFMOX-LB-625, originated from M/s Mrystal Formulations and was distributed by KA Medical Agency to M/s Cabhi Generic House. Subsequently, the latter sold it to the applicant's company, Activentis Biotech Pvt Ltd. Notably, the investigation revealed that both the manufacturer and distributor entities are not in existence. The applicant's company procured a significant quantity of this medicine online from M/s Cabhi

1 2024 SCC OnLine SC 282.

Generic House and subsequently, sold it to Vishal Enterprises. *Prima facie*, there is sufficient material implicating the applicant in the crime. Moreover, a similar offence has been registered against the applicant. The ongoing investigation aims to expose an extensive network engaged in unauthorised drug manufacturing and sales. Given the severity of the offence and its societal impact, the custodial interrogation of the applicant is deemed necessary.

9. In light of the foregoing, the application stands rejected.

(R. N. Laddha, J.)