

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

Anticipatory Bail Application No. 1939 of 2024

1. Nayak Santoshkumar Parshuram
Age 42 years, Occ. Business,
Current R/at. 93, Kailash Nagar,
Godadra, Surat City,
Gujarat – 395 010

2. Kamal Alok Kundu
Age 48 years, Occ. Service,
Current R/at. 93, Kailash Nagar,
Godadra, Surat City,
Gujarat – 395 010.

...Applicants

Vs.

The State of Maharashtra
Thane Nagar Police Station

..Respondent

Mr. Nehal Desale, for the Applicants.
Mr. Amit A. Palkar, APP for the Respondent – State.
PSI Prakash Shirsath, Crime Branch Unit No.1, Thane present.

Coram : R. N. Laddha, J.

Date : 15 July 2024

P.C.

. The applicants are apprehending their arrest in connection with C.R. No.383/2024 registered at Thane Nagar Police Station, Thane City, for the offences punishable under Sections 272, 273

and 328 read with 34 of the Indian Penal Code and Sections 27, 23, 26(2)(iv), 30(2)(a) and 59 of the Food and Safety Standard Act, 2006. The applicants have approached this Court seeking anticipatory bail.

2. The prosecution claims that, acting on secret information, police intercepted and searched a tempo in Thane. During the inspection, they found contraband; specifically, prohibited gutkha, scented tobacco, and pan masala valued Rs.26,86,534/-. The applicants and other co-accused allegedly intended to sell these banned items.

3. Heard Mr. Nehal Desale, learned counsel for the applicants and Mr. Amit Palkar, learned APP representing the respondent – State.

4. Mr. Nehal Desale, the learned counsel representing the applicants, asserts that the applicants have been falsely implicated in the present crime based on the co-accused's statement. He contends that the applicants work as labourers at Jagdamba Cargo Service, which is owned by Suman Jha and Rakesh Kumar Jha. Notably, the applicants are not named in the FIR and have no criminal antecedents. Furthermore, Mr. Desale highlights that the co-accused, Suman Jha and Rakesh Kumar Jha, have already been granted anticipatory bail, and the prohibited items have

been seized. Therefore, he argues that the custodial interrogation of the applicants is unnecessary.

5. The learned APP representing the State contends that the co-accused revealed the applicant's identities and alleged their involvement in attempting to transfer prohibited items in Mumbai. The seriousness of the offence necessitates the applicants' custody to trace the transaction chain. Additionally, the learned APP asserts that granting anticipatory bail to the applicants could potentially lead to tampering with prosecution evidence or witnesses.

6. Upon perusing the record, it appears that there is no direct link between the applicants and the alleged crime, except for statement made by the co-accused, Loknath Narnolia. It is worth noting that the applicants are employed by Jagdamba Cargo Service, and that there is no material on record to suggest that they knowingly transported prohibited items. Additionally, the applicants have no criminal antecedents. The seized prohibited items are already in custody, and the co-accused, Loknath Narnolia, has been released on bail. The prosecution's apprehension about tampering with the evidence / witnesses can be addressed by imposing appropriate conditions. Considering these factors, 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 C.R. 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.

8. The application stands disposed of accordingly.

R. N. Laddha, J.